IRS AUTOMOBILE RECORDKEEPING REGULATIONS

HEARING

BEFORE THE

SUBCOMMITTEE ON TAX, ACCESS TO EQUITY CAPITAL AND BUSINESS OPPORTUNITIES

OF THE

COMMITTEE ON SMALL BUSINESS HOUSE OF REPRESENTATIVES

NINETY-NINTH CONGRESS

FIRST SESSION

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IRS AUTOMOBILE RECORDKEEPING REGULATIONS

FRIDAY, FEBRUARY 8, 1985

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON TAX, ACCESS TO EQUITY
CAPITAL AND BUSINESS OPPORTUNITIES,
COMMITTEE ON SMALL BUSINESS,
Washington, DC.

The subcommittee met, pursuant to notice, at 10 a.m., in room 2359-A, Rayburn House Office Building, Hon. Thomas A. Luken (chairman of the subcommittee) presiding.

OPENING STATEMENT OF CHAIRMAN LUKEN

Mr. LUKEN. The meeting of the Small Business Subcommittee on Tax, Access to Equity Capital and Business Opportunities will now come to order.

The Small Business Committee just organized yesterday and this will be the first hearing in our new session of this 99th Congress of the United States.

Today, we are going to consider the most controversial tax issue since the 10-percent withholding of just a couple of years ago, which was repealed a rather short time after enactment.

This provision, if allowed to remain in effect, will make more honest American businessmen and women criminals than anything since prohibition. The public response and cry for repeal has been overwhelming. Even though today most of those who will be affected are perhaps still unaware that the provisions do apply to them. The IRS regulations affecting tax recordkeeping for automobiles became effective on January 1 of this year and they have created this uproar.

Since announcing this hearing, this subcommittee has been inundated with calls from Members of Congress, who have told us of the heat that is being generated back in their districts as a result of this ill advised provision and the regulations issued following the management of that provision.

One of our witnesses today will tell us—an electrical contractor, a small business person—that he expects to suffer a loss of about $18,000 per year by reason of this absurd requirement. It is estimated that small business people, our most productive citizens, will be spending about $7 billion in order to save, in order to produce revenue estimated to be $140 million. That means two things: One, the consumer is ultimately the payer. Consumers will suffer the burden of this $7 billion, and the small business person is con-

scripted to work for bureaucrats for pennies per hour in the line of productivity.

We will proceed with testimony from witnesses. We are able to accommodate only a few of those who would like to testify, but before proceeding, I would like to call upon the Members who are present, to see if they have any opening statements, then we will call upon the Members of Congress from the Senate and House first for their statements.

First, from the majority side, I call upon Representative Roemer from Louisiana.

Congressman Roemer.

Mr. ROEMER. Thank you, Mr. Chairman. I want to thank the chairman for having the hearings. This is literally his first day on the job.

Mr. LUKEN. Could I interrupt? I want to first give credit—which I have not done—to the Representative from Louisiana. Mr. Roemer has spearheaded this repeal and he has secured the cosponsorship on repeal legislation of his bill, of about 200 Members. So that is the kind of reaction that we have been getting and it is the kind of leadership we have been getting from Congressman Roemer.

OPENING STATEMENT OF HON. BUDDY ROEMER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF LOUISIANA

Mr. ROEMER. Thanks again.

Yesterday, as you know, the Small Business Committee organized for the 99th Congress, and Tom was selected as chairman of this subcommittee by unanimous vote of the Small Business Committee.

So I want to congratulate you, Tom, and I want to thank you for having these hearings today.

I also want to thank our witnesses from whom we are about to hear. Without exception they have worked with this Member and other Members who have similar bills to try to correct this wrong and each can be proud of the work they have put in.

It is not my bill, it is our bill. The bill number is H.R. 600 [1] and to keep my comments short, it goes to the repeal of the section of a law. There is no attempt to modify or to compromise with contemporaneous accounting. We will attempt to repeal it, to remove it from the Tax Code.

Our feelings, simply put, are that the cure is worse than the disease. There were those in good faith, Members of Congress, members of the staff, bureaucrats, and IRS, good men and women, who in good faith thought that there was some noncompliance in the area of business deductions. The provision they came up with to cure the noncompliance though, suffers in two aspects: One, it makes a tax code that is already too complex, more complex. Two, in an attempt to modify the original thrust they now allowed those who qualify in certain sections of the law to keep no records at all. So if noncompliance were their real enemy, they have contributed to the enemy.

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[1] See appendix page 211.

Finally, I resent a taxpayer being considered guilty until proven innocent. It is not the American way. It is not fair. I guess in a corny sort of way, you could say it is not right. This attempt is not right.

In the same vein, a personal note. I assure you I was not born to keep records for the IRS, and this provision, if we allow it to stand under the law, no matter how they try to compromise and modify it, will mean that either on a daily, hourly, or in the computer age, on a minute basis, my time and intentions will be logged.

We need to stop it now. I think it is a classic nonpartisan problem. I don't have 200 cosponsors, but I have well over 100. I have the sheet here. I have them left and right, Democrat and Republican, and you can see the column is almost equally divided. This is a classic nonpartisan issue, because the Republicans, I think correctly, emphasized growth, and the complexity of this change in the law flies in the teeth of growth. You don't have time to grow. You have to be keeping records.

Democrats have for a generation talked fairness, and this change in the law flies in the teeth of fairness. It is not fair for small businessmen and women, particularly those who hire Americans. Seven out of 10 Americans work for a company with fewer than 100 employees. Small businessmen and women are what make this country grow. It is not fair to have those who are least able, in terms of not having a bevy of lawyers at their side, to have to keep these kinds of records. I am concerned with noncompliance, but this goes too far. We need to repeal it.

Thank you, Mr. Chairman.

Mr. LUKEN. Thank you, Mr. Roemer.

Next we will hear from the minority side, Congressman Slaughter. Welcome to the committee.

Congressman Slaughter is from Virginia.

OPENING STATEMENT OF HON. D. FRENCH SLAUGHTER, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF VIRGINIA

Mr. SLAUGHTER. Thank you, Mr. Chairman.

H.R. 600 is a bill that would simply repeal the onerous provision in question—section 179(b) of the Tax Reform Act of 1984—and return us to the more practical documentation procedures accepted by IRS before this section was enacted—that is "reasonable reconstruction of expenditures."

I have received a substantial volume of mail on this issue, and in these letters, one theme appears again and again: It is that our citizens do not object to fair taxation but that the new regulations are excessive, unnecessarily burdensome, and unfair—especially to small business.

I have brought some of my letters from constituents with me today, and I would like to quote some of them right now. These are the people affected by these regulations, and these are the people to whom we should be listening.

A lumberman from Doswell, VA, writes:

> After only one day of keeping this record, I find that it is the most single most burdensome Government recordkeeping requirement that I have ever had to comply with.

A co-owner of a commercial refrigeration and air-conditioning company in Ashland, VA, asserts that:

> If the Government keeps on pushing these time consuming regulations on small businesses, they are going to force hundreds of thousands of us out of business; then the government will be picking up unemployment on us.

An electrical contractor from Charlottesville, VA, writes:

> Do you realize it will cost more to keep this log-keeping requirement than the profit margin I would receive from the employee to keep the log on his assigned vehicle, not counting the filing space needed to store these logs?

And finally, a funeral home director from Strasburg, VA, claims:

> If you will truly and honestly look into and think about how impossible it will be for small businesses to keep an accurate record, you will come to the same conclusion I did, that it is idiotic.

I agree.

Admittedly, some taxpayers have used business expenses as a loophole through which they can escape paying their fair share of the tax burden. However, as one of my constituents wrote, the tax evader fraudulently reported business expenses in the past, he can certainly doctor his contemporaneous records as well. As is so typical of many government regulations, the cure is worse than the disease.

In response to public outcry, IRS has revised these new regulations. These modifications appear to offer little or no relief to many of our smallest business entrepreneurs and including many farmers who must take part-time employment on the farm in order to keep their farms. This is not good enough and this is why I believe that more than 100 Members of Congress are pressing for a complete elimination of the contemporaneous records provision by cosponsoring H.R. 600.

The contemporaneous recordkeeping provision is a fine example of how our Federal Income Tax Code has become too complex and burdensome for the average American taxpayer. Most Americans believe that our Tax Code needs to be revised to make it fairer, simpler, and more efficient in the collection of revenues. These new recordkeeping rules are strictly an example of tax complications for citizens. We should be moving in the other direction, toward tax simplification and greater fairness.

Thank you, Mr. Chairman.

Mr. LUKEN. To the majority side, Congressman Robinson of Arkansas.

OPENING STATEMENT OF HON. TOMMY F. ROBINSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARKANSAS

Mr. ROBINSON. Thank you.

First, I would like to thank our distinguished subcommittee chairman for having the wisdom and foresight to call this hearing today. Small businesses are faced with a tremendous burden in the recordkeeping regulation which the Internal Revenue Service is developing. Your timely action to seek public comment on the effects which this regulation will have on small business, Mr. Chairman, is to be commended.

Since arriving in Washington, DC, several weeks ago, I have been overwhelmed with mail from my constituents on this issue.

David Fisk of Jacksonville, AR, told me in a letter that he feels the recordkeeping regulation would be "cumbersome and time consuming." John Dugger of North Little Rock informed me that he would lose the equivalent of a full week per year in lost time spent complying with the recordkeeping provisions. These are just several of the hundreds and hundreds of anecdotal testimonies which I have received from my district. The mail is continuing to pour in, which confirms, I believe, the fact that the IRS recordkeeping proposal is a bad idea.

I wish the IRS were here so I could share my views with them directly, but I understand they did not want to attend. I am outraged today about the IRS refusal to participate in this hearing. All of us know that the IRS is the leading cause of hypertension in this country, and personally I think that it is time that we come up with a new cure for that hypertension. They know exactly what they are doing. They are trying to destoy the business community in this great land.

I would like to send a message to our President. He doesn't need an MX missile system, he has one in the IRS. The problem is that it is targeted on our small businesses. However, we are not the enemy in America. We make up this great country and we should have some control over what the IRS does.

I am pleased to be here today to speak on behalf of my fellow Arkansans. We don't like it, we are outraged, and if I had my druthers as far as a deficit reduction package that would be productive for this country, we would abolish the Internal Revenue Service and I hope I have an opportunity to vote on their budget, because I am not going to vote for it for their refusal to participate in a meeting like we are conducting today.

Thank you, Mr. Chairman.

Mr. LUKEN. Is Congressman Bedell here? He has a time problem.

Mr. BLILEY. He will be back. He had to make a phone call.

Mr. LUKEN. So then we will turn to the gentleman from North Carolina, Congressman Coble.

OPENING STATEMENT OF HON. HOWARD COBLE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NORTH CAROLINA

Mr. COBLE. Mr. Chairman, I guess in the strict sense of the word, I am an intruder here, because I am a member of the Export Subcommittee. Thank you for permitting me to sit in. I thank you for having called this meeting and I will say to the gentleman from Louisiana: Congressman, you have one more cosponsor than you had when this meeting started.

This is a good example, as my colleagues have said, of onerous legislation at its worst. It results in penalizing many because of the sins for the omissions of a few. As far as I am concerned, it once again inserts the nose of the IRS into your and my daily business where it has no business. It again inserts the hand of the IRS into your and my pocket where it has no business.

Mr. Chairman, in your opening statement when you indicated that this has created an uproar, sir, you made an understatement. These are letters that I have received this week on this matter. I am sure that I pose no exception—I am sure the rest of these gen-

tlemen received an equally impressive number. I want to do all I can to scrap this tax legislation.

[Excerpts of letters referred to above follow:]

The following excerpts are from letters concerning the Internal Revenue Service record keeping requirements for the business use of automobiles. The outcry on this issue has been greater than on any other single issue from my constituents. Since these regulations became effective on January 1, 1985, I have received mounds of mail on this important issue and want to share the following with you. I feel these letters best represent the valid arguments for repeal of these regulations.

HARRY D. JOHNSON, President,
J&J STEEL ERECTORS, INC.,
Greensboro, NC.

As a small business firm and taxpayer, we are writing in response to the new law the IRS passed this past January 1, 1985, concerning auto record keeping. If businesses are going to have to log all miles on all vehicles that they own, our workers' productivity will decline. Our office personnel and the drivers of these vehicles, are going to be bogged down with unnecessary paper work. We understand that the law is intended to put a stop to the purchasing of luxury vehicles by businesses which are taking it off their taxes, but the little man will be the one hurt most by this new law. We do not object to fair taxation, but we do not have the personnel for the extra and excessive amount of record keeping requirements which this law requires. There has got to be another way to put a stop to such things.

As representatives for our state, we, the private firms taxpayers, want you to put a stop to this law. If our productivity drops and we cannot see profit, then we will not be able to continue in our business.

NEIL A. MACPHERSON, President,
MACPHERSON, INC.,
Greensboro, NC.

I came to America nine years ago as I felt this was the land of opportunity, leaving England, which was heavily taxed, and socialism which had been eroding our life style to a point were the entrepreneur was squeezed dry.

I have to bring to your attention my company's total dissatisfaction at the new law which became effective January 1, 1985, which creates an excessive burden concerning the use of company vehicles.

I have no objection to paying a fair tax and helping to reduce the budget deficits which are now excessive, but surely there must be a simpler way of getting the necessary taxes without putting an unfair burden on employers and employees alike.

I want to go on record on this matter as I feel so strongly that this is the land of opportunity and the land of creation of wealth. We cannot have this type of legislation impeding the growth of this fine country; therefore, I ask you to use all your powers to have this situation corrected and simplified.

TOM E. WILLIAMSON, JR., President,
BURLINGTON CHEESE CO., INC.,
Burlington, NC.

Seldom does the IRS issue a ruling causing more immediate inconvenience, irritation, and unnecessary consumption of man hours than the recent one requiring daily logs of mileage in company vehicles.

Having our drivers comply with accuracy is practically impossible. Avoiding accidents is difficult enough for them.

Another piece of paperwork, another document, is like cruel and unusual punishment.

The IRS is invading our privacy. Not only do they have full knowledge of our financial structure, they now know of our whereabouts at every moment. Big Brother is simply becoming too big.

The cost to business is far greater than the net tax to be realized from this procedure.

I urge immediate repeal of the ruling and a moratorium on tax changes until we are all able to devise a less complex and more equitable structure. Let's act now to halt this maddeningly complex proliferation of problems.

ROBERT J. FLOYD, Pastor,
NORTH LEXINGTON BAPTIST CHURCH,
Lexington, NC.

In the last session of Congress, Congress instructed the IRS to require people using their automobiles in business to maintain extra special records. I realize the intent of this instruction. However, to maintain extra special record keeping creates paper work of great magnitude.

Mr. Coble, I urge you to urge Congress to rescind this instruction to the IRS. Congress is causing more problems for the wrong people than are being solved.

Speaking for many pastors and self-employed people in your constituency, I thank you for any help you might render.

Mr. COBLE. Mr. Chairman, thank you again for having permitted me to join this subcommittee today.

Mr. LUKEN. We thank the gentleman from North Carolina.

We now turn to the first panel and we are very pleased and honored to have from the other body, from the U.S. Senate, Senator David Pryor from Arkansas.

TESTIMONY OF HON. DAVID PRYOR, A U.S. SENATOR FROM THE STATE OF ARKANSAS

Mr. PRYOR. Thank you so much for allowing me to attend.

I see our former sheriff of Pulaski County is here trying to lead a little applause.

Mr. LUKEN. It is my job to restrain him.

Mr. PRYOR. You have a very, very distinguished citizen of Arkansas on your committee and I don't know whether to extend to you, sir, and to the members of the committee my congratulations or my sympathy. He is a very wonderful fellow and a Congressman and probably has the greatest grassroots feel for people in our State of anybody who has come along in a long time. I am honored to be with him and you.

I have a longer statement, Mr. Chairman, I would like to submit for the record.

Mr. LUKEN. Without objection, it will be received.

Mr. PRYOR. If I might, I would like to give you a brief summary of what is going on in the Senate. With Senator Heinz, Mr. Chairman, I introduced S. 260, on January 22 of this year. We now have 44 Senators sponsoring this bill to repeal this particular section of the tax code.

I think the broad, bipartisan support for this repeal effort shows how frustrated thousands and thousands of people are with this new statute and the regulations drafted by the IRS. I also think the new statutory provisions which require contemporaneous records, were in response to a problem, but it was an overreaction.

We knew that there was a problem in the area of luxury cars when a person bought an expensive car and used the investment as a tax credit and accelerated depression to cut their tax bill. We saw many hundreds of ads that ran across the country in newspapers showing how to make these tax savings. I think that is really how this ball got rolling last year.

I think most Members felt in the Senate that all these new rules were designed to stop this problem. However, the new recordkeeping requirements go much further and literally affect every business, regardless of size and all forms.

The recordkeeping is enormous. There have been very few issues where I have seen the type of public reaction that we are now seeing.

I would like, Mr. Chairman, to finally quote a statement I read this morning by Senator Packwood, the chairman of the Finance Committee, of which I am privileged to be a member. Senator Packwood stated: "We can work out some rational accommodations that get at the 10 percent of taxpayers who are abusing the law without hurting the other 90 percent."

I think also, Mr. Chairman, that there is an admission we ought to make today, as Members of Congress. We goofed. We made a serious mistake. We understood that there were abuses, there is no question about this, but it was the Congress, as an institution that gave to the IRS the authority to go out and correct a problem. It is a typical casebook example—if I might say this—of the Congress recognizing a problem and telling a Federal agency of government, "go out and correct it." We gave them this power.

Without question, they went too far. They adopted a system that is wrong and is going to be a severe burden. But, I think our first order of business is to admit we made a mistake. The way we cure that mistake, is by repealing it. This is what we should do—repeal it, start from the ground up. The purpose of this meeting today, Mr. Chairman, is to begin that process, and I commend you for this effort.

I want you to know how very privileged I am to come over and give you a little idea of what is happening on the other side of the Capitol. I join you in these efforts and look forward to working for repeal of this very onerous statute.

Mr. LUKEN. Thank you.

I think as far as the popular support here in the Congress, that you have indicated that almost half of the Senate is already aboard for outright repeal and there is almost half of the House already, so it is something that has built up a head of steam very quickly, and it is reflective especially here in the House, I can say, because this is the people's House and we do respond, and I think most of us are proud of the fact we do respond to our constituents—those are the people we represent and they come to us with a just cause—then we do react, and that is what is happening here.

Thank you for a very strong statement.

[Senator Pryor's prepared statement follows:]

PREPARED STATEMENT OF HON. DAVID PRYOR, A U.S. SENATOR FROM THE STATE OF ARKANSAS

Mr. Chairman, I appreciate the opportunity to appear before this committee today and speak on the new automobile recordkeeping requirements. These new rules, which were included in the Tax Reform Act of 1984, and dealt with also by the Internal Revenue Service [IRS] in proposed and temporary regulations, impose new and very burdensome requirements on small businesses, their employees, and farmers.

I commend you and this committee for holding this hearing today. To the best of my knowledge, it is the first congressional hearing on the new rules, and it comes at a very opportune time. Support for repealing the new requirements is increasing, and recently we've seen the Treasury come forward with certain modifications. Therefore, progress is being made. However, for reasons which I'll explain later, I still believe we should repeal the new rules.

Mr. Chairman, I will summarize my statement. I would appreciate it if my entire statement could be included in the record. I know there are several other witnesses you will hear from today on this very important issue.

Mr. Chairman, in 1983 newspaper advertisements were placed in some of the major newspapers around the country. They showed how much a person could save on his or her taxes by purchasing a "luxury car." By using the investment tax credit, and the accelerated cost recovery system [ACRS], the purchase of an expensive car, if used in one's trade or business, could generate very attractive tax benefits.

Legislation was introduced in both the House and Senate to cap the basis (cost) of a car that could be taken into account in computing the ITC and ACRS. This was included in the final version of the Tax Reform Act of 1984. The ACRS deductions were not capped, but instead were slowed somewhat. The maximum investment tax credit is now $1,000, regardless of the purchase price of the car, and the ARCS deductions have an annual limit ($4,000 in the first year, and $6,000 each year thereafter until the full cost is recovered). So, the so-called luxury car issue has been dealt with.

Along the way, however, the so-called substantiation requirements under section 274 of the Internal Revenue Code were changed. Prior to last year's tax bill, the requirements for certain types of business expenses, primarily travel and entertainment, were "adequate records or other sufficient evidence corroborating the taxpayer's own statement" in regard to the deduction claimed. It's my understanding that this statutory language, as interpreted by the IRS in its regulations, required books and records "at or near the time the expense was incurred" or some other type of substantiation, like a diary or travel log. However, there was not a contemporaneous requirement.

This new requirement was added last year, and the language dealing with other sufficient evidence was struck. Now, no deduction or credit is allowed for certain "listed property" (like transportation or personal computers, etc.) unless "adequate contemporaneous records" are kept.

As interpreted by the IRS, this means virtually each time a person enters his or her car, an entry must be made in a travel log. It can't be reconstructed at a later date. The end result of these new rules, and the new regulations, has been a massive amount of new paperwork placed on small businesses and their employees. Many farmers have had a great deal of trouble trying to comply with the new logging requirements.

The new statutory provision, and the new regulations that have been issued, should be repealed for three reasons, Mr. Chairman.

First, there was virtually no debate in either House about these new requirements and the problems they might cause. There was considerable debate and discussion about the luxury car provisions, but virtually none over these new expanded recordkeeping rules, which affect virtually every businessman in the country.

Second, I believe most people felt this type of provision was directed at the so-called "luxury car" problem, and I don't believe most members intended to levy these new recordkeeping requirements on small businesses and farmers.

Third, the new requirements are imposing a tremendous paperwork burden on these people. They could use their time in better ways. I've talked with many, many small businessmen who've told me their employees were spending about 30 minutes each day filling out the new detailed travel logs. The problems have been even greater for farmers. Many of them have several trucks, some of which aren't driven by the same employee all day. Further, some of the trips are all on business, and they get in and out of the truck many times—for example, when going to several fields. They've told me that the new rules are simply too stringent.

For all of these reasons, Mr. Chairman, I think the most prudent course for the Congress, would be to repeal the rules, and go back to the law as it existed prior to the Tax Reform Act of 1984. To the extent that abusive cases still exists, then I think the tax-writing committees of the House and Senate can look at them and develop appropriate legislation. But, it seems wrong to me to cast this broad net and sweep everybody into it, knowing exactly what we're doing.

I would like to point out, Mr. Chairman, that about a week or so ago, the Internal Revenue Service did issue a press release announcing that certain changes would be made to the new regulations. These modifications will help farmers, certain salesmen who drive on round trip sales calls, and certain others who use the automobiles for commuting purposes. These changes, although not out in final form, are certainly an improvement. However, I still think the best course would be to repeal them, and then look at other ways to get at any problems that might remain.

Another problem, Mr. Chairman, which is related to this issue, is in the area of fringe benefits. Even if a company might be able to fit into one of the new "safe harbors" of the modified regulations, if an employee uses a car for personal use in nonworking hours, he or she will still have to keep records to figure the percentage of personal use for fringe benefit purposes. This requirement will apply to many, many employees, and at least for them, it will seem that nothing's changed.

In order to alleviate this problem, at least as far as public safety officials are concerned, I introduced S. 281. This bill will provide a fringe benefit exclusion for any use of a public saftey vehicle (like a police patrol car, fire protection vehicle, or emergency medical vehicle) by someone employed in that line of work. It would certainly relieve a very serious problem. Many law enforcement agencies are now having their people keep records after their shift ends, and this strikes me as wrong. These people are always "on call" and don't have the time to fill out travel logs to compute their "personal use" for fringe benefit purposes.

These are just some of the issues that have come to light since the enactment of this new provision, Mr. Chairman. I think the opportunity to examine these new rules will be welcomed by many in the small business and farming sectors of our economy. You and the other members of the committee are to be commended, and I will be more than happy to work with you on these important issues. For many years, we've tried to reduce the paperwork problems facing our small businesses. With this new rule, we've headed in exactly the opposite direction. Certainly, expanded recordkeeping in the tax area can often improve compliance, but I think we have to consider the burdens it places on small businesses before we enact this type of measure. In this case, the new requirements are simply too onerous, and they should be repealed.

I hope this can be done in the very near future.

Mr. LUKEN [continuing]. Now, let us hear from Mr. Bliley, our colleague from Virginia. We will be pleased to hear from you at this time.

STATEMENT OF HON. THOMAS J. BLILEY, JR., A REPESENTATIVE IN CONGRESS FROM THE STATE OF VIRGINIA

Mr. BLILEY. Thank you, Mr. Chairman.

Mr. Chairman, members of the committee, thank you for giving me the opportunity to come before you today. The subject of this hearing—the effect of the recently enacted contemporaneous recordkeeping requirements of the 1984 Deficit Reduction Tax Act on small businessmen and women—is a matter of great concern to the millions of Americans who routinely use their automobiles in the course of conducting business. I am confident that as knowledge of these new requirements grows throughout the country, so will the groundswell of opposition to these burdensome new regulations.

I think it is particularly commendable, Mr. Chairman, that you have seen this opposition movement as it is materializing at its earliest stages. Members of Congress who are concerned about the new law sincerely appreciate your creating a forum for our grievances to be aired.

I would also like to note the fine work of the gentleman from Louisiana, Representative Roemer, a member of the committee, with whom I have worked to publicize the problems with these new rules and whom I have joined in sponsoring H.R. 600, the "Taxpayer Relief Act of 1985." Mr. Roemer and other Members who have introduced legislation on this subject deserve special recognition for their efforts.

Mr. Chairman, prior to passage of the 1984 Deficit Reduction Tax Act, taxpayers who wanted to claim standard business deductions for the use of automobiles in their vocations were required to keep "adequate" records with sufficient evidence to justify these busi-

ness use deductions. These rules applied not only to cars but also to other property used in business and for personal or family use. Under the prior law, businessmen and women could keep weekly logs or even reconstruct their logs later, as long as they could still prove proper business use. While these rules were far from perfect, the new rules go beyond the bounds of reason in trying to correct the problem.

Contemporaneous recordkeeping—requiring taxpayers to keep a log at the actual time of each use—has been particularly burdensome to some members of our economy like farmers, who routinely use their trucks interchangeably for business and personal use, and just plain onerous on everyone else. I think that at a time when farmers have to worry about the costs of keeping their lands and about how they are going to get loans for spring planting with interest rates at their current levels, this new law telling them that they will have to spend this much time and produce absolutely nothing but paper, is a real slap in the face.

Mr. Chairman, my statement goes on considerably longer. With your permission, I would like to request unanimous consent to revise and extend my remarks and yield back whatever time I may have remaining to the Chair.

Mr. LUKEN. Well, without objection, your further comments will be received. We thank you very much, Representative Bliley, for your statement.

[Continuation of Congressman Bliley's prepared statement follows:]

CONTINUATION OF PREPARED STATEMENT OF HON. THOMAS J. BLILEY, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF VIRGINIA

Mr. Chairman, beyond the questions of whether or not the new contemporaneous recordkeeping requirements go overboard and hurt small business, there are other points your committee should consider. First, we have no specific and accurate revenue estimates that I'm aware of to tell us whether or not these new requirements will actually generate any new revenues. The last time I looked for such estimates, I found that only the Joint Committee on Taxation had produced such numbers. But the JCT's estimates also include other related provisions of last year's tax bill, such as depreciation limits on the use of luxury cars. I cannot tell how much of the estimated $150 million and $233 million in fiscal years 1985 and 1986, respectively is derived from each of the many sources that the JCT has lumped together in coming up with these estimates. I would hope that the committee would research this carefully. I think you will find that increasing the paperwork that a small businessman or woman has to fill out will not necessarily result in any greater revenue to the Treasury. As long as the claim is an honest one—which I believe most are—the same deductions can still be taken. In fact, there might even be a loss to the Treasury, as people are required to spend more time on nonproductive endeavors such as filling out log-sheets, when they could be working and producing.

The second point the committee should consider was brought out very well in a recent "dear colleague" from our colleague Representative Horton, a member of the Federal Paperwork Commission. Mr. Horton's point was well made that these new regulations represent a reversal of the progress we have made over the past decade in trying to reduce the amount of time and paper that face taxpayers. Mr. Horton carries his point further and suggests that Members support legislation introduced by our colleague Representative Anthony, which is identical to the Roemer-Bliley legislation.

I would like to make a third and final point to conclude Mr. Chairman. We all know how this provision came to be part of the law. And I do not quarrel with that. But your committee and the Congress must insist that it is the proper role of the Congress alone to pass legislation and to make amendments to that legislation.

On January 23, incoming Treasury Secretary Baker commented in his confirmation hearings that Treasury would do something about these regs. In two days, the

Internal Revenue Service issued a press release which indicated that significant revisions would be made to the October regulations which would carve out board exemptions and satisfy the critics of contemporaneous recordkeeping.

On the basis of the IRS comments, I do not feel that the anticipated revisions would go nearly far enough to satisfy our problems. Further, the proposed revisions that IRS will produce seem to further complicate an already confusing matter.

But the most important issue to be addressed regarding the IRS is whether the IRS has the authority to change the law—not just the regulations implementing the law. And I am particularly concerned that, in the past month, we have faced a situation where the IRS has actually been working to undercut an effort of Congress to respond to a groundswell of public support for repeal legislation. I think that this puts the IRS in the role of lobbying the Congress and undermining its directives and its legislative efforts.

Mr. Chairman, we had a poor compliance record with pre-1985 law. But we have used a cannon to kill a gnat with these new contemporaneous recordkeeping requirements. Further, as the IRS's revisions to its October regs grow, an even more cumbersome process takes shape. All the while, America's small businessmen and women suffer because Congress and the Federal bureaucracy have done a poor job.

The only way we can accomplish all of our goals—increase compliance, reduce paperwork, and regain the trust of our constituents—is to repeal contemporaneous recordkeeping and go back to the drawing board.

Mr. LUKEN. Our colleague, Mr. Rowland.

TESTIMONY OF HON. J. ROY ROWLAND, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF GEORGIA

Mr. ROWLAND. Thank you very much, Mr. Chairman.

Mr. LUKEN. Do you have a prepared statement?

Mr. ROWLAND. I have a prepared statement that I wish to enter into the record, but in the interest of time, I will summarize my statement.

Mr. LUKEN. Without objection, your statement will be received.

Mr. ROWLAND. Thank you very much for the opportunity to testify here this morning. I first learned about this legislation from my accountant back in November after he attended a seminar in Macon to learn what contemporaneous recordkeeping meant, and after I talked with him, I really couldn't believe what he told me the IRS was doing.

While I realize that the IRS has offered some alternatives, some concessions, for those people who have been guilty of overestimating their record, the IRS is offering an automatic 70-percent deduction. In effect, those people who use their vehicles only 50 percent of the time for business, will be allowed a 70- to 80-percent writeoff without accounting for daily use, while those who use their vehicles for predominantly business in excess of 70 percent, will either have to keep meticulous logs or else they won't be entitled to the entire business deduction that they would get.

Shortly after the first of the year, I was in Waycross, GA, talking to a group of farmers there, and rather than talk about the problem they were having with the drought or talk about the many things that concerned them about high prices, they were talking about the fact they were going to have to keep these records and they were considerably upset about that. I have a statement from the Georgia Farm Bureau Federation which I wish to make a part of the record.

[Prepared statement of the Georgia Farm Bureau Federation follows:]

PREPARED STATEMENT OF BENSON HAM, LEGISLATIVE DIRECTOR, GEORGIA FARM BUREAU FEDERATION

Mr. Chairman, members of the Subcommittee, Members of Congress, staff, the Georgia Farm Bureau Federation is the largest farm organization in Georgia with a membership of 153,000.

On behalf of our farmers and other business people, we object to the regulations adopted by the Internal Revenue Service requiring substantial record keeping on farm vehicles. We object to these regulations for the following reasons:

1. Farmers and ranchers generally work extremely long hours beginning before sunup and continuing until after sundown. There is actually no time available for record keeping without losing time from production.

2. On many farm vehicles, the odometer does not work and there is no way to record mileage.

3. Many farm employees are unable to read and write even though they may be good vehicle operators.

4. Many farm trips have some personal use involved. For example, the farmer will go into town and pick up a part for the tractor and on the way home pick up the children from school, or he/she will stop by the store and get a loaf of bread for his or her spouse.

5. Farm vehicles are unfortunately not generally kept in neat order and the log-book would frequently become lost or damaged.

We realize that the purpose of these regulations is to collect more tax money without getting blamed for raising taxes, and we are sympathetic to this problem. We submit, however, that it is not good economics to require farmers and ranchers to spend $10 in lost time for the Internal Revenue Service to collect an additional $1 in tax.

On behalf of our 153,000 members, we thank you for the opportunity to present this statement.

Mr. ROWLAND. The following Sunday I was at church. After church I was talking with my minister. The first thing he wanted to talk about was the recordkeeping. And I also heard from some other ministers in talking with a group of people at Waycross, and real estate agents, small business people, and law enforcement officers have brought this to my attention.

Mr. LUKEN. I understand Mr. Bliley is an undertaker. You haven't mentioned that.

Mr. ROWLAND. Can you imagine if he goes to the store to get a loaf of bread with his hearse, he is going to have to keep a record of that?

But when I was in the Georgia House of Representatives, we passed some legislation that allowed the State troopers to take their vehicles home with them, and the reason is because if one person kept that car, the car lasted much longer. In addition to that, the presence of this vehicle in the community and neighborhood was a deterrent to crime. Now these law enforcement officers find that they are going to have to keep these records also.

I have also talked with some people who tell me they won't have any trouble keeping the record, they will make it 6 months in advance and they will be able to turn it in. The people that are cheating are going to continue to do that and whether it will save $100 or $600 million is problematic. I think it might cost $100 million rather than save.

Mr. Chairman, members of the subcommittee, thank you so very much for having this hearing here this morning. I commend you in taking the lead and my colleague, Buddy Roemer, for spearheading this effort, and I hope that what will be compiled here today will certainly bring about the repeal of this legislation which we so badly need to do.

Thank you very much for the opportunity to be here this morning.

[Congressman Rowland's prepared statement follows:]

PREPARED STATEMENT OF HON. J. ROY ROWLAND, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF GEORGIA

Although I would have liked to invite one of my constituents who has been affected by these recordkeeping requirements to represent the views of all those like him affected, I found that there is no one individual who is representative of all the many people affected. Therefore, I would like to speak in behalf of those who have contacted me.

As we all know, the provision of the Deficit Reduction Act which mandated the contemporaneous logkeeping of business use of a vehicle was added by the Senate and was part of a 1451-page document. Even if I had been familiar with the particulars of this provision at the time, I do not believe my constituents would have accepted my vote against a "deficit reduction package" because of one unacceptable provision.

However, I firmly believe that it is the responsibility of the Congress to enact fair laws and not rely on the whim of an agency in its interpretation to either mitigate or subvert the intent of Congress.

In this case, I understand that the proposed modifications to be issued by the IRS will alleviate some of the burden. For those most burdened, I am glad that there is hope of some reprieve. But, just as the IRS should not subvert the intent of Congress, the IRS should also not be relied upon to undo the harm caused by unfair laws.

In the event that the IRS does succeed in relaxing the recordkeeping requirements for selected groups, we still need to pursue legislation to repeal this entire section. Now I know that if I were in business and the IRS offered me a way out of this requirement, I would probably take the "bird in the hand" approach. But what these business people on which the requirements are eased must realize is that the next time they might not be the lucky exempted group. The laws of this country should be fair to everyone and it is not the place of the IRS to do just enough to ease the pressure to repeal unfair laws.

I am well aware that the impetus for these requirements was the amount of revenue estimated to be lost each year through overestimation of the business use of an automobile or truck. But the fact of the matter is that anyone who has been in the habit of overestimating in reconstructing their business use can just as easily continue to do so on a daily basis. I even know of some people who have gone ahead and filled out their logs for the year.

Even if the IRS regulations, as I understand them, offer some alternative means for calculating business use, those that are guilty of overestimating will be offered an automatic 70 percent business deduction. In effect, those people who only use their vehicles 50 percent of the time for business will be allowed a 70 to 80 percent writeoff without accounting for their daily use. While those who use their vehicles predominantly for business in excess of 70 percent will either have to keep this meticulous log or take less than they are entitled to as a business deduction.

My point is, it is more than obvious that our system of taxation is a form of social engineering. And if we are going to use it to stimulate the economy and generate revenue to the Treasury, this is not the way.

In closing, I would like to summarize the type of problems that I know to exist in complying with these requirements.

Realtors are in the business of stimulating the housing industry. Time taken to record their business does not accomplish this purpose.

Law enforcement officials are in the business of protecting the community, not accounting for an emergency trip in the middle of the night to investigate a crime.

Physicians are trying to save lives and are probably not thinking of their odometer when they are on the way to the hospital to operate on a heart attack victim.

Small businessmen are trying to stay afloat in a land already inundated with regulations and this one more will surely take its toll.

Accountants are afraid that these regulations will make dishonest taxpayers out of honest people because not everyone has their own personal tax attorney to advise them of the nuances of the law.

And farmers, who most certainly are being assaulted from all sides this year are probably the most burdened of all. I am submitting a statement prepared by the Georgia Farm Bureau Federation which enumerates the problems with these regulations.

Mr. Chairman, the facts in this matter seem apparent to me. This section of the Code simply does not accomplish its intended purposes. It does however stifle economic activity which is known to be a sure-fire way of generating revenue to the Treasury.

I commend this Subcommittee on taking the lead in trying to undo the damage being caused by these regulations. I hope that the report compiled today will bring about the changes that are so badly needed and restore this standard business deduction to one that is reasonable and workable.

Mr. LUKEN. Thank you, Mr. Rowland.

Now, Mr. Bedell hasn't returned. I just want to make sure that we give him an opportunity to get on promptly. Does the panel have any comments or questions of the Senator or Representative Rowland?

Mr. ROEMER. I would like to ask our witnesses a question if I could.

Senator, in your statement you said several things strongly that I appreciate and several things that interested me. I would like to pursue my interest and thank you for the strong statement.

First, you talked about Congress making an error. That is a tough thing for a politician to say—I made a mistake. It is obvious that we did when we passed last year's tax bill and had this small provision neatly folded in it. You said that we made an error. I agree. I wonder what the realization of that error does for future tax bills?

For example in your opinion, should we ever have a simple, clean, openended invitation to the IRS to clean up a problem or should we direct them in the law exactly as to how to clean up a problem?

Mr. PRYOR. This is a matter of philosophy I guess, of the legislative process, Congressman Roemer. I would simply answer by saying that I think we need to be more specific. On the Senate side, in the Finance Committee, we did not have a hearing on this particular issue of accounting for automobiles. It was basically done—I guess you would say, very quickly. We did not have an adequate discussion. There was a 13 to 6 vote in the Finance Committee, 13 prevailing to go ahead and breathe into the IRS that power to correct this abuse, and the IRS overcorrected the abuse, as agencies sometimes do.

But, I think we are going to have to be more specific, especially in this area, and especially as we give additional powers to Federal agencies like the IRS. I think we have got to be very, very cautious and careful before we give or grant a power to the IRS.

Mr. ROEMER. It concerns me, not only with the question of power, where it rests and how it is applied, but in future tax bills. Tax bills are always complicated. They are long, too complex, and we often don't know—those of us not on the Senate Finance Committee or on the House Ways and Means Committee—what is in a bill, and I tell you from our side, speaking for one Member of Congress, my confidence has been eroded not just in IRS, but in the committees of the Congress charged with the responsibilities of fair and equal tax provisions.

You know, on the House side we never debated for a single minute on the House floor this provision and many House Members pointed to the Senate as the problem. I guess some of you over there pointed to us and maybe the truth is we are the problem, and

I am glad you made the point in your statement. I think it is valid and relevant.

Mr. LUKEN. Would you yield?

Mr. ROEMER. Yes.

Mr. LUKEN. I am personally convinced that there are many Members of the House who will be affected by these provisions and in talking to them, they are unaware of it. So the legislators themselves who passed this burden—that is why I said earlier on that the uproar that has been created so far is nothing compared to what it will be if it isn't changed by 1985 when it seeps into everybody's consciousness that they are affected.

Mr. PRYOR. May I respond, Mr. Chairman? I know that I don't want to monopolize this. Congressman Rowland brought out a very good point. Under the same bill in the area of fringe benefits, the IRS interpretation is going to be that local law enforcement officers—sheriffs, Congressman Robinson, deputy sheriffs, city patrolmen, firemen, emergency medical service individuals, will have income on the use of vehicle. Those people in that fine industry, if they drive that vehicle home at night—most of those people are on call 24 hours a day—there is going to be a tax imputed as a fringe benefit to those local law enforcement officers. This is another area I don't think the Congress had any idea, or any intent, I should say, to penalize those officers who basically are on call 24 hours a day, especially in our smaller rural communities.

We have legislation to change that section, as well as to grant relief to the law enforcement officers who are underpaid already.

Mr. ROEMER. Let me ask you—I know your time is short—my final question. Your bill, the Senate bill S. 260, is slightly different from H.R. 600 and other House bills. We repealed the whole section. As I understand it, the Senate just repeals the part that applies to vehicles?

Mr. PRYOR. I think that is correct.

Mr. ROEMER. If that is true, why the difference? If contemporaneous accounting is a taxpayer sin, why not for other business assets?

Mr. PRYOR. Well, generally, it was the intent I think of the Congress to recognize a problem and it was in the so-called abuse of the use of automobiles, and this is why we put vehicles/automobiles in our section. I don't think that we are going to fall out about coming to a meeting of the minds ultimately down the road if we want to look at what I call a small difference. But, I think that is the legislative history as to why vehicles were specifically named in our legislation.

Mr. ROEMER. I can't, I don't want to put you on the spot, I wonder if the House does pass a repeal of the provision, clean and final, would you and your colleagues be amenable to agreeing with that, to changing your bill?

Mr. PRYOR. This colleague certainly would.

Mr. ROEMER. I thank you.

Mr. PRYOR. I think we have to start over from scratch.

Mr. ROEMER. You are a great American. Never greater than at this moment.

Mr. PRYOR. I shouldn't use this, sitting by my undertaker friend.

Mr. ROEMER. Mr. Rowland.

Mr. ROWLAND. I am a family doctor, not an undertaker.

Mr. LUKEN. I can't let that go.

Mr. ROWLAND. Mr. Bliley is an undertaker.

Mr. ROEMER. You and I are great Americans.

Mr. PRYOR. It is the old classic story of the no-good town drunk who dies in front of the barbershop. The barber called his brother-in-law, the banker and said, "Your brother-in-law died in front of the barbershop, do you want him embalmed and buried or cremated?"

The banker said, "Don't take any chances, do all three."

I think it might be something here, Congressman Roemer, that we have to go at. And finally, I think Congressman Roemer is really asking a good question about the philosophical—to what extent we made these mistakes and admit these mistakes. I always find some comfort in what Winston Churchill said: "Democracy is the worst of all systems, except for all the rest."

But I think that we have to really realize that the American public, I think every now and then they would like to see the Congress, as an institution, say look, we goofed up, and because we goofed up, we are going to start over—and I think that they might appreciate that candor from the Congress as an institution.

Mr. ROEMER. Thank you.

Mr. LUKEN. Thank you, Senator, very much, and thank you, Dr. Rowland.

So we will be glad to excuse the members of the panel except Congressman Bedell, who hasn't had an opportunity—the senior and very valued member of the Small Business Committee, Congressman Berkley Bedell of Iowa.

OPENING STATEMENT OF HON. BERKLEY BEDELL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF IOWA

Mr. BEDELL. Thank you. Sorry, I am running everywhere this morning. Sometimes we get those kinds of mornings.

I would like to have my full statement entered in the record, if I could, and because of what has already happened, I am not going to go through all the details.

Mr. LUKEN. Without objection.

Mr. BEDELL. I can only say I recently spent 2 weeks out in my district and the only issue that rivaled the problems we are having with our agricultural economy out there was this recordkeeping requirement for vehicles.

The Senator has brought up an additional problem that there may well be in regard to people who work for the fire department or the police department, or on 24-hour call. I think that shows the broadness of the problem that we face. My understanding is that some of these provisions were originally put in because of abuses that it was felt existed for the use of luxury cars. I can tell you that in my district we don't have any luxury cars, we have a devil of a time even paying for pickups that farmers are trying to use in their work.

In regard to computers, my understanding is that there may be a simpler problem in regard to computers where if people use a computer for both business and personal purposes, they are going to

have to keep track of every minute that they turn on that computer.

I think Mr. Roemer is correct in the fact that we had better look a little beyond because this is not the first time that legislation has passed without adequate consideration of what the IRS might do in enforcing the laws that we pass here in the Congress.

I have great disagreement with the way we are generally going in regard to tax policy. It appears to me that what we have done is institute big, major tax cuts and then nitpicked people to death to try to pick up a few pennies after giving away many, many dollars.

According to a recent study by Citizens for Tax Justice, during the 3-year period 1981–83, 65 major American corporations made profits of approximately $50 billion, and paid taxes of negative $3 billion. I don't have the list here but it starts with General Electric, Westinghouse, Dun & Bradstreet, Du Pont, right down the list.

It seems to me that what we need to do is properly tax people. It seems to me our tax laws should be such that big business pays taxes comparable to small business.

It seems to me that, above all, we should not say that everybody is a crook, but rather assume that people are going to be honest and even try to have legislation that will, in a reasonable manner, collect taxes properly from people.

Mr. Chairman, I commend you for your work. I commend Mr. Roemer and others for the leadership they have shown on this issue, and I thank you for the opportunity to testify.

[Congressman Bedell's prepared statement follows:]

PREPARED STATEMENT OF HON. BERKLEY BEDELL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF IOWA

I would like to thank you for giving us the opportunity today to focus attention on the urgent need to repeal the new business mileage recordkeeping requirements. These requirements put an unreasonable paperwork burden on our small businesses, farmers, officials and the great majority of the honest taxpayers. For this reason, I have cosponsored repeal legislation sponsored by Congressman Buddy Roemer of the Small Business Committee and Congressman Beryl Anthony of the Ways and Means Committee.

When I recently spent two weeks traveling the towns of Northern Iowa, these logging regulations provoked people's outrage almost as much as the sad state of our rural economy. One small businessman told me he felt like he had an IRS agent riding in his car all day long, every day. Many stressed that these regulations would consume thousands of hours and dollars which could be used much more productively.

The Internal Revenue Service, whose first version of the regulations was a disaster, has now announced that revised regulations will be released in the near future. I believe that these proposals will not solve the fundamental problems that exist with this law, and that we in Congress must legislate its repeal. While the revised regulations may relieve the paperwork burden on certain categories of people, many others will still be subjected to this ridiculous harassment. The problem is that there are just too many gray areas when we try to separate business and personal use, and the effort to refine the regulations just makes things worse. Questions about people who garage a vehicle for the company, who are on call 24 hours a day or who commute instead of paying hotel bills lead us to a tax code that is more complex and unfair at a time when we need simplicity and fairness.

People have told me that they understand that the original intention of the law was to end the tax abuse of writing off expensive luxury cars in three years, and I support this part of the law. Most small businesses do not buy these luxury cars. But the "contemporaneous records" requirement added by the Senate is exactly the opposite of tax reform. In the three years from 1981 to 1983, sixty-five major American companies earned $49 billion in profits and yet paid *no* Federal income taxes. These 65 firms actually received back $3 billion dollars from the government. If we

truly care about tax reform, this is where we should put our efforts. But let's not pester the honest majority of our taxpayers with increased paperwork. I urge the immediate repeal of this logging requirement.

Mr. LUKEN. Thank you very much, Congressman Bedell.

Are there any questions?

Mr. ROEMER. I have a question.

Berkley, thank you for your statement. You hit on an interesting point. That is, that you sense, or you state you seem to have some disagreement with tax policy as practiced in America. What about the concept—and this is part of it, it seems to me—of simplification and revision of the Tax Code? Do you think there is any place in the Tax Code for social purpose or capital formation purposes, or business decision purposes, or reward and punishment purposes, that go beyond an 8-percent flat rate, no matter how much you make, when you make it, or how you make it? Should the Tax Code have complications for national purposes?

Mr. BEDELL. I don't think the question is whether our Tax Code should have them, because we have them no matter how you do it. If we increase corporate taxes, for example, it has some influence upon business, according to how those taxes are written. I think the problem is twofold:

First of all, as we write tax laws here in our country—at least in the years I have been in Congress—it appears to me that special interests tend to be those interests that have adequate financial resources to both make big contributions to congressional candidates and also have financial power to pursue successful lobbying efforts in the Congress. They tend to, therefore, get special breaks in the way we write our tax laws.

Second, so frequently as we try to write tax laws to accomplish things, what we actually accomplish is completely different than what we thought we were going to accomplish. I guess I do not think we can write tax laws that will not have impact upon how our society operates. I think that is the nature of taxing, if we are going to tax.

But I am greatly distressed over what I have seen happen to our tax laws since I have been here in Congress. I think that we are just going exactly in the wrong direction. I do not believe that you can possibly say that it is right for the Du Pont Co. to get big taxes back and then for all the small businesses that make paint or toothbrushes or whatever else in competition with them to have to pay high taxes. I just named one firm, you can go down through the whole list. A similar situation exists with all the things that General Electric makes and small businesses make in competition with them. It isn't fair when the small businesses have to pay taxes, and General Electric gets the biggest refund of any of those corporations over that period of time.

Mr. ROEMER. I thank you for your statement.

I have no further questions except to say that Mr. Bedell, above any Member of Congress, has in the 4 years and 2 months I have been here, fought on the House floor for the benefit of small business—not unfairly.

I give a specific example, Mr. Chairman. Last year, and the year before, under great pressure, great political pressure, Berkley Bedell fought for the right of small business to compete on the

major contracts at the Pentagon and other places, and he didn't win all the battles, but we thank him for fighting.

Mr. BEDELL. I thank you. I appreciate the help you and others gave me in that effort, Buddy.

Mr. LUKEN. Thank you, Mr. Bedell.

We have two other members of the committee who are here. We would like to recognize them and ask if there is any comment.

Mrs. Meyers of Kansas, do you have any statement?

Mrs. MEYERS. I have no statement, Mr. Chairman.

I think my concern is the same as has been expressed by some of the other members of the committee. I began receiving mail from the emergency medical technicians and I got this picture of a vehicle going out to rescue somebody and the ambulance stopping to take down the amount of mileage. But then I began to hear from the farmers and from others, and I have received several hundred pieces of mail. Even as a new freshman, the mail started coming in right away. This issue helped them to find me very quickly.

I am here today primarily to learn if the new proposed regulations of the IRS are going to appropriately address the situation or if we need more than that.

Mr. LUKEN. Thank you.

Another colleague, Mr. Gallo from New Jersey.

Mr. GALLO. Thank you, Mr. Chairman.

I do have a statement that I would like to have entered into the record.

Mr. LUKEN. Without objection it will be entered.

[Representative Gallo's prepared statement follows:]

PREPARED STATEMENT OF HON. DEAN A. GALLO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

I am pleased to be joining the Committee on Small Business and I look forward to working with all of you. At this time I would like to place into the hearing record some brief remarks.

I have received a good deal of constituent mail concerning the "adequate contemporaneous records" requirement under the Deficit Reduction Act of 1984 as that requirement has been interpreted by the Internal Revenue Service in the regulations made effective January 1, 1985. I know that the IRS has issued a news release setting forth its proposed modifications of the regulations. If, in fact, the IRS adopts these modifications, some of my constituents' concerns may be alleviated.

As the regulations now stand, however, taxpayers are required to maintain comprehensive records which include individual entries for each use of property for which a business deduction is sought. Each entry, with name, date, mileage, time and purpose must be made at or very close to the time the property is used.

It seems that we in government sometime forget that there are real people out there. Taxpayers who have tried to comply with the regulations report that the creation of these records is extremely burdensome.

Americans understand and applaud the purposes of the Deficit Reduction Act. They agree that the tax laws should be applied uniformly and fairly. They do not believe that the Act achieves those purposes. Instead, they see the present situation as a way of providing full employment for accountants and lawyers.

I agree with my constituents that the Act with its accompanying regulations is overly burdensome and requires honest taxpayers to keep excessive and unnecessary records.

Mr. LUKEN. The gentleman may proceed.

OPENING STATEMENT OF HON. DEAN A. GALLO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Mr. GALLO. I just left a group from the State of New Jersey Chamber of Commerce which came down to visit with their congressional Representatives. The main topic of conversation was this problem of reporting business vehicle use. We all want to be fair and we want to do what is right, and we want to make sure that people pay what they are obligated to pay. But there is always that question of fairness. I think we have heard an awful lot in the last year or so about fairness in taxes, fairness in reporting, and whether or not we are going to be able to, as a Congress, come up with a fair way of reporting.

I believe that the American people are for the most part honest and want to do their jobs. I received a letter the other day from an individual—I won't name him—who said he was 42 years old, and has been paying taxes and enjoying the rights of a citizen of the United States. He said this is the straw that is breaking his back as far as voluntarily doing what is right. And he said that "it is unfortunate that I am not in a position where I feel this is so unjust that it may make a criminal out of me by not conforming to the regulations as they are outlined, and yes, I will probably have my secretary do it on a monthly basis."

I don't think the law or the IRS or this Congress wants to make anyone feel that he no longer wants to pay his taxes voluntarily. I don't think that is the intent, and I do feel very strenuously opposed to this particular portion of the act. I am pleased to hear the dialog taking place among those testifying and the members in recognition that an error may have taken place.

I served in the State legislature of New Jersey for five terms, and it is indeed refreshing to hear people say that we may have made a mistake. So I just want to join with my colleagues and those who have testified in saying that a mistake has been made and it should be rectified.

Mr. LUKEN. I thank the gentleman from New Jersey, and I might comment we are going to receive testimony from the Fire Chiefs Association on the issue which has been raised now by a couple of witnesses. I think we are going to receive testimony on just about every issue that has been raised directly from the people who are affected. They are going to be appearing before the subcommittee this morning and this afternoon.

We have other Members who are unable to be here who would like to have their comments inserted into the record, and without objection, the prepared statements of Representatives Weber of Minnesota, Dreier of California, Smith of New Hampshire, and Boehlert of New York will be admitted.

[Prepared statements of Representatives Weber, Dreier, Robert C. Smith, and Boehlert follow:]

PREPARED STATEMENT OF HON. VIN WEBER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MINNESOTA

IRS GOES TOO FAR WITH RECORDKEEPING RULES

I want to apologize to the subcommittee for not being able to attend today's hearing. Unfortunately, because the original date of the hearing was changed, this morning's meeting conflicted with a previous commitment.

I know that my colleagues on the committee and those testifying before the committee share my strong opposition to the crazy regulations the Internal Revenue Service [IRS] issued regarding recordkeeping of auto use for business. These regulations, though modified, are a burden to small business and farm operators.

I would like to ask the committee to allow me to provide some examples of constituent response to these regulations. The letters represent the overwhelming opinion of the people of Minnesota's Second Congressional District who are opposed to such far-reaching regulations.

Thank you very much for the opportunity to participate and I look forward to working with other Members of Congress to rescind such bad policy.

ROUTE 1, Box 99,
Westbrook, MN, January 14, 1985.

DEAR MR. WEBER: I am writing to protest recent tax legislation that requires farmers to keep log books on farm vehicles. Farm vehicles are used for an infinite number of tasks around and for the farm business, and yes, sometimes for personal reasons. In my case, on my farm, farm vehicles are used less than 5000 miles per year. These are high cost miles (short trips, heavy loads, and soft field conditions). It is very difficult to determine the cost of these miles compared to long distance over the road miles. Because of their heavy construction and the low miles per gallon one gets driving them, they are not well suited for extended personal use.

I would therefore appreciate it very much if you would work to change this part of the tax law so that log books would be eliminated for farm vehicles.

Another item I would like to write about is the investment credit deduction. There is talk of eliminating investment credit in the future. I feel we should keep investment credit but with two important stipulations;

1. Investment credit should apply to new items only, or in other words, investment credit can be used only in the lifetime of any item.

2. Investment credit should be for the present of U.S. content only. If an item is made in the U.S.A. but, has 40% foreign parts, then only 60% of the cost of the item would be eligible for investment credit.

I feel that keeping investment credit with these stipulations would give American industry a needed shot in the arm.

Thank you for your time and consideration.

Sincerely,

KEITH W. NELSEN.

M&M DISTRIBUTING CO.,
Pipestone, MN, January 17, 1985.

Representative VIN WEBER,
Washington, DC.

DEAR REPRESENTATIVE WEBER: We own three stores and have trucks and cars operating at all locations. Our ability to give truly accurate logging information in all instances is very unlikely. What this legislation does, or will do, is make each of us a liar at the end of each year.

I doubt if the federal government wants to create more deception and more inconveniences for its taxpayers. It seems ironic that as we hear talk about tax simplification we have another bookkeeping nightmare dropped on us.

Yours truly,

MARK MCCALLUM.

MINNEOTA, MN, *January 14, 1985.*

DEAR REPRESENTATIVE VIN WEBER: I am writing this letter in regard to the new requirement of the I.R.S., that I must keep a complete log of my farm pickup miles and use to claim it as an expense on my farm income tax. I feel this requirement is unnecessary and not realistic. For example during harvest I may be in and out of

my pickup 10-15 or more times a day, often driving only a mile or two. All this record keeping is too time consuming. I hope you will use your office to repeal this law or get an exemption for farms. Thank you.

Yours truly,

VICTOR LEPPKE.

AVOCA, MN.

MR. WEBER: What can you do to eliminate the need for farmers to keep a log of their pickup mileage. We farm in several locations and find it necessary to make many trips to each place during the year.

As for pleasure use—a 4 wheel drive is not exactly what you might consider a smooth ride.

Do the cabinet officials have to keep a log on their limo's?

Sincerely,

DELVEN GAUL.

TRUMAN, MN, *January 3, 1985.*

CONGRESSMAN WEBER: I just finished reading about the changes in the tax laws which now make it necessary for farmers to keep a daily mileage log for pickups and other vehicles used for farm business.

This is a rather ridiculous law because it will do nothing but waste the time of us farmers. I use my car and pickup for farm business, and many of those miles are put on making short trips such as hauling fuel to the field, pulling wagons, getting parts, etc. If I am supposed to keep track of all these trips in detail as the law states it could take me a half-hour per day. In the busiest time of the year when most of these miles are driven, no farmer has an extra half hour.

Laws like this do nothing but hurt the honest person. I realize that the expense deduction can easily be misused, but let's face it, this law won't stop cheating, it will just put it down on paper.

Give us a break and do whatever you can to change this law. We don't need Big Brother watching us.

Sincerely,

JOEL OBERDIECK.

R. LEE MOTORS, INC.,
Alexandria, MN, January 18, 1985.

DEAR VIN: I'm writing to tell you how much I dislike your new law pertaining to the business use of vehicles. We are in the business of selling cars and trucks and have already lost a few new car deals because people don't like the inconvenience of keeping your log book.

I have kept your log book since the first of the year and consider it a real pain in the ———! In this business too many people drive the cars.

My opinion is that your new law is on about the same level as the breaking up of Ma Bell. Which as you know has saved us little people just loads of money.

Sincerely,

R. "BUMPER" LEE.

LABORERS LOCAL NO. 132,
Mankato, MN, January 21, 1985.

Representative VIN WEBER,
Cannon House Office Building, Washington, DC.

DEAR REPRESENTATIVE WEBER: My view on the present requirement for reporting of miles is that this is a punitive action. This affects all working people who have a necessity of using a vehicle in the daily operation of earning a living. In an attempt to generate additional taxes, it appears that an excessive amount of contemporaneous bookkeeping is being required to substantiate actual mileage. An employee who chooses to conduct business in the early morning hours prior to what could be termed a normal work day as well as late night meetings is being unduly restricted by logging the mileage to meet the requirements of this legislation. I believe it is not beneficial for an added source of revenue to require this type of record keeping,

nor is it conducive to the orderly operation of any business requiring outside representatives or sales personnel.

While I believe it is easily recognizable as an employment benefit, my employer has required in the past and will continue to require that I report as additional income any private use of company-owned vehicle. I do however strongly object to the requirements of logging business mileage every time I enter and/or leave my vehicle.

I urge you to strongly oppose the continuation of this particular piece of legislation.

Thank you.

Sincerely,

JOHN L. KOR, *Field Representative.*

WHEATON, MN, *January 10, 1985.*

DEAR SIR: I'm writing in regards to this not so intelligent log book law you guys are trying to push on to us farmers. Come on, you're smarter than that, aren't you. If not, you better let someone else sit in your chair.

Can you picture yourself getting in the old '69 jalopy pickup and going ½ mile to the field umpteen times a day and of course at both the start and the end of your long trip to write down the day, time and mileage (½ mile—that's a joke to record that!) We don't all have new pickups to drive to town. Ours is used mostly for spraying, carrying gas, oil or parts. We definitely don't enjoy family rides or trips to town with it. When the weather is hot, it is very hot and when the weather is subzero, so is good old pickup.

Or—our truck is used for loads from combine to granary or elevator. We also don't get all dressed up and go to church or a family gathering in the truck. It has quite a bounce to it, so don't ride any farther than a person has to. Can you imagine (most likely you can't) harvesting all day and when the hour is approaching midnight you keep your beady little eyes open just a bit longer, dig out your log book and again write down date, mileage and destination after the long trip from the field to your wooden bin—when the mothers or wives want to get on with supper!

People aren't going to write it down each trip, they'll sit down some rainy day and write down a whole bunch of trips to town with the destination a trip to town to pick up a bolt, washer, etc. This is going to make liars out of our citizens.

We realize what you're trying to solve, but there has to be a better way. These log books are hard when 3 or more people are driving the same vehicle!

Get the picture!

Sincerely,

THE MILTON HORMANN'S.

Attn—Defense Dept: By the way, can't they find a little cheaper screwdrivers and bolts to use for repair work down there.

JOHNSON, MN, *January 11, 1985.*

Hon. VIN WEBER: I am writing to you to see if you can do anything to help me from being harassed by the Internal (eternal) Revenue Department with their asinine rule that we must write down every mile that we drive our car or pickup for farm work.

As we understand it, every time we get into the pickup or car we must record the mileage, (speedometer reading) and when we stop we must again record the date, speedometer reading, reason for trip, etc. in order to get credit on our income tax report.

This would probably not be harassment during the winter and at times of the year when things are rather slow on the farm. But during planting time, haying time, harvest time, and when we must make every minute count in order to get the work done in the fall we simply should not be forced to spend time for something like that.

We often must work from early in the morning until long after dark. And then we should be forced to take time out for such a foolish thing. I surely hope that you can help us out and have that rule (it is not a law, is it?) repealed.

Sincerely yours,

ERWIN BARTSCH.
IOLA BARTSCH.

P.S. We voted for you in 1984.

SAINT PAUL CHAPTER,
NATIONAL ELECTRICAL CONTRACTORS ASSOCIATION,
Saint Paul, MN, January 2, 1985.

Hon. VIN WEBER,
Cannon House Office Building, Washington DC.

DEAR MR. WEBER: The new IRS regulation on contemporaneous logs to be kept in company-owned vehicles is going to be the biggest "paper war" perpetrated on American business in a long time.

For service truck employees to log every stop, enter odometer readings, calculate mileage, and specify the nature of the trip is not only asinine but extremely costly in terms of lost productivity. It is not inconceivable that at least fifteen minutes per day could be consumed by plumbers, electricians, refrigerator repairmen, etc. to keep these contemporaneous records. At $.60 per minute, or $36.00 per hour, (the cost of a service employee for wages, benefits, taxes, overhead, etc.), this adds up to real money. An owner must pass the cost on to the customer or "eat it."

We have one company in our organization, a St. Paul electrical contractor, that has more than 25 service trucks on call seven days a week, 24 hours a day. This company has computed a potential $40,000 annual liability for the keeping of these contemporaneous logs by their service employees. These employees keep their service trucks at home so that they may respond immediately to service calls any hour of the day or night. The mileage from their home to the "first stop" is considered "personal use" even though it may be an emergency call in the middle of the night or on a weekend. Likewise the mileage back home from that service call is also "personal use."

While the IRS regulations do provide for an employer to recover from employees the cost of so-called personal mileage, where a collective bargaining agreement exists (such as service employees), it would be a violation of the National Labor Relations Act for an employer to unilaterally deduct such amount from any employee's pay.

This is a Catch 22 situation if I ever saw one. It seems that where a company vehicle is housed at an employee's home for the convenience of the employer, there ought to be some form of de minimis exclusion beyond which "fair market value" be assessed for strictly personal use.

It is obvious that the rule makers in IRS do not understand the real world of small business, and particularly that of the construction industry. The very people that these new regulations are aimed at are the same people who pay the bulk of the corporate and personal income taxes that run this country. These additional costs, and the paperwork these regulations will generate, are more bureaucratic roadblocks to business expansion and prosperity.

Please look into this matter and do what you can to put some sense into the new IRS regulations.

With best wishes for a happy, healthy, and prosperous New Year.

Yours very truly,

WESLEY C. OHMAN,
Chapter Manager.

EID'S REFRIGERATION CO.,
TYLER STORE FIXTURES,
Willmar, MN, January 7, 1985.

Representative VIN WEBER,
Cannon Office Building, Washington, DC.

DEAR REPRESENTATIVE WEBER: I am writing in regards to the New Regulations of the 1984 Tax Reform Law which requires that business personnel must keep records of all driving transactions with regards to vehicles of our Company. I find this regulation is just another expense to small business personnel and is another way for the Government to get involved in the private sectors business dealings. This new regulation is just another time consuming expense that most of the small business men can not afford and hope that you will try to get some kind of action going that would get this regulation repealed as soon as possible.

Following is the approximate expense that it will cost to business to follow this regulation.

9 Vehicles at 15 Min. per day and 25 Min. for administration would be 2 hours per day $10 per hour which would equal $20 per day 255 days per year and this would cost	$5,100.00

Expense for making up the required record books is	157.28
Total	5,257.28

As a politician and or business man you can see that this is no small amount of money for a small business man to have to put out each year to go along with this regulation and is just another expense that is hard to take. Also I was under the impression that the government was trying to eliminate some of the paper work involved in government but it looks like all the government is doing is dumping on the private sector of business.

I would like and appreciate an answer to this letter on this situation, and some answers to the following questions.

1. What you can do to have this regulation repealed?
2. How you voted on this if it was voted on?
3. How it became a law?

Sincerely,

WESLEY E. HANSON, *President.*

STEEN, NM, *January 4, 1985.*

Representative VIN WEBER,
Cannon House Office Building, Washington, DC.

DEAR REPRESENTATIVE WEBER: I am writing to protest the new business mileage log requirements for farmers. It is an unfair burden to add to us.

We have several different farms. There are many short trips made between these farms. It isn't fair that we have to record each five mile trip. When my husband goes to do chores on another farm, he frequently has to go back and forth several times because he found something wrong over there. For instance, at this time of year, he may find a frozen animal waterer. When he has to come home to find a way of thawing it out, he isn't thinking about recording his mileage and why he went back home.

Also during the planting and harvesting seasons, many breakdowns occur, many times requiring trips to town for parts, sometimes several trips in one day. A farmer who has a broken down machine in a busy time of year doesn't think about recording the mileage of his trip.

We also have a two ton truck which we use to haul our own livestock and grain. If you've ever driven a two ton truck with out power steering, you will know we are not going to take it out for a pleasure drive.

Please get this law repealed!

Sincerely,

Mrs. FRED A. TILSTRA.

APPLETON, MN, *January 8, 1985.*

Hon. VIN WEBER,
House of Representatives, Washington, DC.

DEAR MR. WEBER: Lying next to me is a notice from my tax account concerning logs and records for business vehicles. Who runs this country, the taxpayer/voter or the IRS? I regard this new regulation as supreme foolishness!

Not only is this regulation highly impractical, but it will contribute to the already socially acceptable practice of cheating on taxes. At its best, such a log will be a slightly accurate fabrication, which, in a few years will be largely recognized and disregarded by the IRS. Since this legislation affects all segments of business, yet not increasing productivity or efficiency, (or tax liability) it should be recognized as the worthless imposition that it is.

As you know, Congress as a whole is held in very low esteem by the American public—not hard to understand the reason when encountering such incredibly stupid legislation. Obviously, I urge prompt and speedy reversal of this regulation!

Sincerely,

CRAIG W. WILKENING.

WHEATON, MN, *January 9, 1985.*

Hon. VIN WEBER,
House of Representatives.

DEAR SIR: I am writing you to voice my disapproval of the IRS ruling concerning farmers to keep log books on pickups and farm trucks. Nearly every mile put on these units is for farm use and not for pleasure rides. We use them many times a day going to the fields or from field to field, a trip to the neighbor to borrow a piece of equipment or a trip to town for repair.

This ruling will create more problems for us than we already have, especially in the busy seasons of planting and harvest.

I am hoping maybe you can do something to help correct this law which never should have been passed.

Yours truly,

WILBERT SCHNEIDER.

PREPARED STATEMENT OF HON. DAVID DREIER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. Chairman, I welcome this opportunity to address this subcommittee and make known my concern for the new adequate contemporaneous recordkeeping rules established by the Internal Revenue Service in response to the 1984 tax bill. I know I speak for many of my colleagues in saying that the provisions in the tax bill relating to the use of equipment for business purposes was not intended to create excessive paperwork burdens and economic hardships for millions of small business people around the country who depend on their automobiles for their livelihood.

The regulatory burden on the small business person is already excessive. Filling out paperwork, according to the Small Business Administration, demands over one billion manhours on the public each year, costing approximately $50 billion. The IRS accounts for roughly half that amount. When you add to this additional burden the fact that most local IRS offices are ill-staffed to provide timely and accurate advice pertaining to the new regulations, literally millions of honest, taxpaying Americans will find themselves facing criminal penalties.

While I truly recognize the need to eliminate fraud and abuse in our tax laws, it is obvious that the strict new recordkeeping regulations go beyond what can be reasonably expected from the American business person. The cost-benefits of the new rules will certainly be negative, creating increased costs for businesses, which will ultimately be passed on to the customer.

I have been contacted by hundreds of constituents who feel cheated by the new rules. For years, the federal government has been telling the business community that it is concerned about the regulatory burden which plagues them. We talk about the need to reduce wasteful and time-consuming regulations, providing relief which will free up additional productive capacity in the private sector. Instead, only token reforms have been implemented, while additional burdens continue to pile up. This has severely eroded taxpayer confidence, necessary for a viable revenue collection system.

I am pleased that the IRS has taken the initial step in easing the recordkeeping restrictions by exempting from the new rules certain vehicles used in business and by farmers. However, these changes do not go far enough. The new adequate contemporaneous recordkeeping rules must be completely repealed before they damage the reproductive capacity of our economy.

PREPARED STATEMENT OF HON. ROBERT C. SMITH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW HAMPSHIRE

Mr. Chairman: I appreciate the opportunity to address this Committee with regard to Section 274 (D)(4) of the Internal Revenue code requiring "adequate contemporaneous records" be kept for automobiles and other vehicles.

I am relieved, as are many small businessmen in my district, that the Internal Revenue Service has "seen the light" on this issue and has greatly modified this burdensome requirement. As a small businessman myself, I can certainly identify with their plight.

During this session of Congress letters from all over the State of New Hampshire have literally poured into my office, denouncing this practice. But let's be honest, it's not just this ruling which is stifling small businesses.

Over-regulation and needless paperwork does not contribute to business productivity, and in fact, lends itself to declining economic growth. New Hampshire boasts over 46,000 sole proprietorships, many of which are threatened whenever government takes it upon itself to unnecessarily regulate their businesses. This is why I am a proud co-sponsor of H.R. 600 which would repeal the adequate contemporaneous rule completely, thereby making New Hampshire small businesses more productive and more profitable.

I wish to thank the Chairman for holding early hearings on this issue which affects so many Americans.

PREPARED STATEMENT OF HON. SHERWOOD L. BOEHLERT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. Chairman, the IRS has demonstrated again its never-ending ability to bungle simple tax laws. I am referring to the burdensome, time-consuming requirement that businesses and individuals who take tax deductions for autos and other property used in their daily work keep detailed records of their use.

Congress slipped a provision requiring "adequate contemporaneous records" into law without ever discussing the idea in either of the tax-writing committees, and then left it up to the IRS to write in the details. What a mistake! The original IRS regulations required a journal with separate entries made every time business property, such as an auto, truck or personal computer, is used for any purpose. The entries have to include the date of each use, the name of the user, the number of miles driven or the amount of time used, and the specific purpose of the use. Any personal use of the vehicle, such as a run to the McDonald's for lunch, would have to be equally well-documented.

Now, in response to the flood of justifiably angry mail that you and I and the Treasury have received, the IRS has "simplified" those record-keeping requirements. Now we have four different categories of usage, each with its own definitions, rules, requirements, and limits. Some simplicity!

Mr. Chairman, the hassles of complying with these regulations fall not just on a major corporation like AT&T, with more than 22,000 service vehicles on the road—and I ask you to consider the enormous cost that the consumer would pay to keep track of all those vehicles—they also fall on every farmer with a pickup truck, every salesperson, electrician, plumber, and repair person with a car or truck, and on every young entrepreneur with a new personal computer. The burden will fall heaviest on those small businesses that are the backbone of our economy, and the spearhead of our economic recovery.

Our constituents do not have the time to keep detailed diaries for the federal government! The average American pays his fair share of taxes, complies with the law, and doesn't need this form of Big Brother harassment.

Mr. Chairman, I urge my colleagues to support all efforts to return to the previous standard of "adequate records or . . . sufficient evidence corroborating his own statement," and repeal that provision of the Tax Reform Act of 1984 which calls for "adequate contemporaneous records."

Mr. LUKEN. The record will be held open for 2 weeks for the submission of any further prepared statements.

[See appendix A, p. 173.]

Mr. LUKEN. We now have a video tape of very short duration—less than 4 minutes—and they say a picture is worth a few thousand words. The Biznet News, produced by U.S. Chamber of Commerce, has offered to give us this introduction.

I might add parenthetically that the hearing advertised on this production to be held by IRS has also been canceled, so what IRS is doing right now we cannot be sure. About 2 weeks ago, IRS announced it was going to amend these regulations within a few days—and that was 2 weeks ago and we have been unable to smoke them out for any information whatsoever, either about hearings or further regulations. That is one of the reasons we decided to go ahead with this hearing today, to give expression to the calls for rerepeal and reform of these laws and regulations.

Now we will proceed with the hearing. We would like to call upon a panel of accountants: Robert Feazell, president of Accounting Associates representing the National Society of Public Accountants, and Joseph Sefferino, partner of Alexander Grant & Co., of Cincinnati, OH.

Gentlemen, which one would like to go first? Mr. Feazell.

TESTIMONY OF ROBERT R. FEAZELL, PRESIDENT, ACCOUNTING ASSOCIATES, REPRESENTING THE NATIONAL SOCIETY OF PUBLIC ACCOUNTANTS

Mr. FEAZELL. Thank you, Mr. Chairman. My name is Robert Feazell, second vice president of the National Society of Public Accountants, past president of Public Accountants Society of Ohio. I am a public accountant, president of the accounting firm known as Accounting Associates in Cincinnati, OH.

The National Society of Public Accountants consists of some 17,000 individual practicing accountants throughout the United States. NSPA has an affiliated State organization in each of our 50 States, the District of Columbia and the Commonwealth of Puerto Rico. Our members provide auditing, accounting, tax and management and advisory services to more than 4 million small businesses and individuals throughout this country.

We appreciate the opportunity to be here today to present our views on the provisions of the Tax Reform Act of 1984 that require adequate contemporaneous records for the business use of automobiles and other property. I believe the only group of people who have heard more complaints about these requirements than those of you who serve in Congress are those of us who serve as accountants.

NSPA urges continued congressional support to legislative repeal of section 179 (b) and (c) of last year's Tax Reform Act. Although the Internal Revenue Service has announced the pending release of relaxed regulations, preliminary information indicates that those new regulations do not address all of the concerns of small business. Furthermore, they do not, for example, even mention the use of computers, an item that has become standard in most small business. Nor do they explain why a farmer can keep no records and treat 80 percent of a vehicle's use as business while a salesman can only treat 70 percent of his vehicle for business use, unless such a vehicle is designated solely for commercial use. They do not go far enough in answering the concerns of those whose questions they do address.

Mr. Chairman, I, and the other members of NSPA, serve the accounting needs of the truly small businesses. These companies are run by what some would call old-time entrepreneurs. Many in Washington would say that they are unsophisticated, and maybe they are. These people are not the small businesses that even the SBA thinks of when they think of small business. They are smaller than that. But let me respectfully point out to you, the Members of Congress, these people pay a lot of taxes. They are honest, law-abiding business people, who find the proposed regulations and the about-to-be-proposed regulations complex, cumbersome, and unnecessary.

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I know I don't need to tell you that these proposed recordkeeping requirements impose a tremendous paperwork burden on all businesses. In publishing the original regulations, the IRS stated that the Office of Management and Budget had, in accordance with the Paperwork Reduction Act of 1980, approved these regulations. In light of all the millions of business owners and their employees who now have to keep detailed logs of their daily use of automobiles and other property, I find this hard to accept. In light of NSPA's work with the IRS and the Census Bureau to reduce the paperwork burden on small businesses, it only confirms our suspicion that in many instances OMB has decided to rubber-stamp the work of other departments and agencies, rather than fulfill its mandate under the Paperwork Reduction Act.

That, however, is another matter. Small businesses are least able to understand these new requirements, and to afford the cost of the added recordkeeping. Furthermore, these paper-generating provisions are interrupting normal business operations, and are unlikely to result in an appreciable increase in revenue. We, in fact, question Treasury's estimate of $105 million in increased revenues in the fiscal year 1985, as it is already illegal to deduct expenses for the personal use of such items as automobiles and computers.

In addition, this revenue estimate must be balanced with what it will cost businesses to comply with these requirements. We feel a conservative estimate of $500 a year for each of this Nation's 14 million small businesses would indicate a cost of close to $7 billion a year for this segment of the business community alone. An even more conservative figure of $100 a year for each of the country's small businesses would indicate a cost of $1.4 billion a year, still far in excess of the Treasury's estimates of increased revenues.

These regulations will put the taxpayer in a position of being guilty until proven innocent and will shift the burden of determining that innocence from the IRS to the tax preparer. My clients don't understand my insistence that they sign a letter verifying that they will keep contemporaneous records. This places me and my colleagues in an adversarial position with our clients, and disturbs the trust we have built up with them. From the accountant's viewpoint, the burden should be shifted back to where it belongs. For years, taxpayers who are audited have been able to prove their deductions to the IRS. If these regulations are imposed, then the Treasury Department should put a statement on the income tax form that the taxpayer would need to sign stating that he or she has contemporaneous records to verify the deductions taken.

Obviously, as accountants, NSPA members are personally concerned by the fact that once again tax preparers will be asked to do the work of the IRS. What will an accountant do when a client refuses to sign that letter verifying his or her records? Most likely watch that client go to an unscrupulous tax preparer who won't require verification. What real protection will the accountant have if the client signs the letter but still fails to keep contemporaneous records? It won't be long before the IRS asks Congress to impose a penalty for these situations too, things the accountant has no control of.

Mr. Chairman, it may be called a sad day in American history when an agency of the Federal Government is so distrusted be-

cause of its condescending and accusatory attitude toward its citizens that it is no longer believed to be acting in the best interests of those citizens, but that is the situation the Internal Revenue Service finds itself in today. As far as members of NSPA are concerned, we would like to see section 179 (b) and (c) of the Tax Reform Act of 1984 totally repealed. We are not satisfied with the prospect of relaxed regulations, because we do not believe those new regulations will go far enough to satisfy the concerns of all businesses and their employees. As long as these provisions are on the books, IRS can always modify its regulations. Neither we nor our small business clients are comfortable with that knowledge.

Mr. Chairman, I want to thank you for affording me the opportunity to be here today, and on behalf of NSPA I want to thank you for the leadership position you and your colleagues have taken on this issue. I hope you will not take my comments as being alarmist, for they do represent the honest thoughts of accountants who are trying to represent their small business clients. Thank you.

Mr. LUKEN. You might have a conflict of interest too. After all, this kind of provision provides business for you, doesn't it?

Mr. FEAZELL. I guess you could say that, right.

Mr. LUKEN. It is an accountant's and lawyer's——

Mr. FEAZELL. Right-to-work law.

Mr. LUKEN. We will now call upon Joe Sefferino, who is from Alexander Grant Co. in Cincinnati. It was his partner who was responsible for my lame wrist.

TESTIMONY OF JOSEPH R. SEFFERINO, PARTNER, ALEXANDER GRANT & CO.

Mr. SEFFERINO. Mr. Chairman, members of the committee, my name is Joseph Sefferino and I am a partner with the national accounting firm Alexander Grant & Co. We specialize in serving small and medium sized businesses throughout the United States, and we appreciate the opportunity to testify before you today.

I am appearing before you today to urge the repeal of certain burdensome and unnecessary automobile recordkeeping requirements and fringe benefit provisions.

These rules pose a particular problem to small businesses because small businesses are quite likely to have vehicles that are used for both business and personal use, but generally cannot afford the detailed procedural manuals, training seminars, and administrative personnel required to comply with the new rules.

We recognize that Congress saw abuses in the way automobiles were treated on tax returns. These perceived abuses focused on two issues. First, that some taxpayers were claiming personal use, primarily commuting use, as deductible business expense. Second, that the Government was in effect subsidizing automobiles that were more expensive than business considerations required.

The additional paperwork required under the new law would perhaps be justified if it resulted in significant additional revenues to the Treasury. But the fact is that far less than 1 percent of the increased revenue from the Deficit Reduction Act is attributable to these reporting requirements.

My testimony today, and the more detailed written comments we have submitted to your committee, will reflect our opinion that the 1984 act overkilled the perceived abuses, and that curtailing these abuses can be accomplished in a manner which is far less burdensome to small businesses.

In brief, our recommendations are: Rules be changed to charge the employee with no personal income when the employee commuting in the employer's vehicle is for the convenience of the employer for a condition of employment. At a minimum—and this is truly at a minimum—we recommend that the effective date of the new recordkeeping requirement be postponed until at least January 1, 1986, to allow further study.

Our other recommendations are outlined in our written comments. Let me explain the reasons for our recommendations. First, the 1984 amendment to section 274(d) should be repealed. Prior to amendment by the 1984 act, section 274(d) provided that a taxpayer's deduction must be substantiated by adequate records or by other sufficient evidence. As amended by the 1984 act, the taxpayer's deduction must be substantiated by adequate contemporaneous records. We recommend the change made by the 1984 act be repealed.

The original language was sufficient. If there was abuse under the prior law, it was not the result of deficiency in statutory language. Under prior law, the IRS had the authority to require adequate records to substantiate a taxpayer deduction. Which records are adequate varies from one situation to another.

The IRS has a more difficult compliance task under the new law. We are virtually certain the IRS will have to examine more returns under the new law than under the prior law. To avoid the burdens of recordkeeping, many small businesses are relinquishing their ownership of vehicles, forcing employees to provide their own cars for business use. This means that the IRS will have to examine the returns not only of the employers, but of each employee who uses his own car in the service of his employer.

As an alternative, some employers are adding the full value of company-owned cars as additional compensation, and again the employees will have to take any deductions for business use on their own returns. Thus, although the contemporaneous requirement may have been intended to improve the quality of taxpayer's records, the ultimate result is that it will be considerably more difficult for the IRS to insure compliance. The taxation of this amount is simply not worth the network of rules it would require.

An exception to the fringe benefit rule should be created for certain personal use. Even where a log is not required in order to substantiate credits and deductions, employers are required to include the value of personal use on the employee's form W2, and to make appropriate withholdings. To determine that value, employees must inform their employers of their personal use. This appears to require that the employee keep a log.

Consequently, even if the 1984 change to section 274 were repealed, recordkeeping would still be required under the fringe benefit provisions.

For example, under the new fringe benefit rules, a policeman who is required to take his police vehicle home must include ap-

proximately $1,000 per year in income to represent the value of his personal use, even though he has no choice in the matter. To our knowledge, no bills currently pending in the House address this problem regarding the fringe benefit provisions.

In conclusion, the contemporaneous requirement must be repealed. Secondly, a fringe benefit exclusion must be created.

This concludes my prepared remarks. I appreciate the opportunity to submit them to you, and will be pleased to answer any questions. Thank you.

[Mr. Sefferino's prepared statement follows:]

PREPARED STATEMENT OF JOSEPH R. SEFFERINO, PARTNER, ALEXANDER GRANT & CO.

My name is Joe Sefferino. I am a partner with the national accounting firm Alexander Grant & Company. We specialize in serving small and medium sized businesses throughout the United States.

I am appearing before you today to urge the repeal of certain burdensome and unnecessary automobile recordkeeping requirements and fringe benefit provisions.

These rules pose a particular problem to small businesses because small businesses are quite likely to have vehicles that are used for both business and personal use, but generally cannot afford the detailed procedural manuals, training seminars, and administrative personnel required to comply with the new rules.

We recognize that Congress saw abuses in the way automobiles were treated on tax returns. These perceived abuses focused on two issues. First, that some taxpayers were claiming personal use, primarily commuting use, as deductible business expense. Second, that the government was in effect subsidizing automobiles that were more expensive than business considerations required.

The additional paperwork required under the new law would perhaps be justified if it resulted in significant additional revenues to the Treasury. But the fact is that far less than 1% of the increased revenue from the Deficit Reduction Act is attributable to these reporting requirements.

My testimony today, and the more detailed written comments we have submitted to your Committee, will reflect our opinion that the 1984 Act overkilled the perceived abuses, and that curtailing these abuses can be accomplished in a manner which is far less burdensome to small businesses.

SUMMARY OF RECOMMENDATIONS:

1) Section 274(d) of the Code should be restored to its pre-'84 Act language.

2) The new fringe benefit rules should be amended to provide an exception for the amount representing the employee's personal use of a business vehicle when the employee's commuting in the vehicle is for the convenience of the employer, and a condition of employment.

SUMMARY OF ALTERNATIVE SUGGESTIONS:

3) If the amendment to section 274 is not repealed, its effective date should be postponed until January 1, 1986.

4) If the contemporaneous log requirement is retained, logs should be required only for passenger automobiles having a fair market value in excess of $16,500:

- accordingly, no log for any vehicle other than a passenger vehicle;
- and no log for a passenger vehicle with a fair market value of less than $16,500.

5) If the contemporaneous log requirement is retained, and the fringe benefit rule is not changed, the employer should be able to elect to forego the deduction and not have to put the value of the employees' personal use on their Forms W-2 or withhold upon it.

6) The tax return preparer should not be required to obtain a written certification from the taxpayer that the recordkeeping requirement has been met.

DISCUSSION OF RECOMMENDATIONS

SECTION 274(d) SHOULD BE RESTORED TO ITS PRE-'84 ACT LANGUAGE

Section 274 of the Internal Revenue Code provides that certain expenses which are otherwise deductible as trade or business expenses, or expenses incurred in the production of income, require special substantiation.

Prior to amendment by the 1984 Deficit Reduction Act, section 274(d) provided that a taxpayer's deduction for expenses to which that section applies must be substantiated "by adequate records or by sufficient evidence corroborating his own statement."

As amended by the '84 Act, the taxpayer's deduction must be substantiated by "adequate contemporaneous records."

We recommend that the change made by the '84 Act be repealed, and that section 274(d) of the Code be applied as though the change had never been enacted.

The original language was sufficient:

If there was abuse under prior law, it was not the result of a deficiency in the statutory language. Under the prior working of the applicable provision, the IRS had the authority to require adequate records and sufficient evidence to substantiate the taxpayer's deduction.

What records are adequate will vary from one situation to another.

In the case of a businessman whose sole personal use of his automobile is commuting, an annual entry might be adequate. Taking the beginning and end of year odometer readings, and subtracting from that the daily commuting mileage times the number of commuting days will quite adequately render the business mileage.

The IRS has a more difficult compliance task under the new law

We are virtually certain the IRS will have to examine more returns under the new law than under the prior law.

To avoid the risk of having deductions disallowed and the need to add personnel and equipment solely to keep track of the business use of employer-owned automobiles, many small businesses are deciding to relinquish their ownership of vehicles, and require instead that their employees provide their own cars for business use.

This development means that, in an IRS effort to ensure compliance with the recordkeeping rules, the Service will have to examine the returns not only of the employers, but of each employee who uses his own car in the service of his employer.

A variation on this theme, which leads to the same result, is that some employers are advising their employees that the employer-owned vehicle will be accounted for in full as additional compensation to the employees, and that the employees will have to take any deductions for the business use of the vehicle on their own returns.

Thus, although the "contemporaneous" requirement may have been intended to improve the quality of taxpayers' records, the ultimate result is that it will be considerably more difficult for the IRS to ensure compliance.

The taxation of this amount is simply not worth the network of rules it would require.

This highlights another area of confusion: there is some degree of overlap between the rules relating to the deductions and credits available with respect to the business use of automobiles, and the taxation of employees on their personal use of employer-owned automobiles. Even in the area of the overlap, however, there seems to be no correlation among the applicable rules.

AN EXCEPTION TO THE FRINGE BENEFIT RULES SHOULD BE CREATED FOR CERTAIN PERSONAL USE OF AN EMPLOYER-OWNED VEHICLE

Even where a log is not required to substantiate investment tax credits and cost recovery deductions, employers are required to include the value of an employee's personal use of a company car on the employee's Form W-2, and to make appropriate withholdings on that value.

To determine the value of such personal use, employees must inform their employers of the personal and total miles driven in company cars. This appears to require that the employee keep a log.

The proposed and temporary regulations issued by the Internal Revenue Service on January 3, 1985, with respect to the taxation of fringe benefits, do not specify the nature of those records. They merely state that the employee must provide a statement to the employer of his personal use, and that the employer must rely upon it unless he knows or has reason to know that it is not accurate.

Consequently, even if the recordkeeping requirement were removed from section 274 of the Code, it would still be required under the fringe benefit provisions.

To our knowledge, no bills currently pending address this problem.

Another of the administrative burdens presented by the new automobile provisions is that the amount of income the employee must include and the amount of deduction to which the employer is entitled are frequently going to be different.

The Internal Revenue Code provides that an employee is not taxed on meals and lodging which are furnished to him as a condition of employment and for the convenience of the employer.

The fringe benefit rules enacted with the '84 Act do not provide such an exception for the employee's personal use of a company vehicle.

Under the new rules, an employee of a heating and plumbing contractor who is required to take the commercial van home at night so he can make emergency nighttime calls from his home must include in his taxable income an amount representing the fair market value of his commuting and other personal use.

Under the new rules, a policeman who is required under department policy to take his police vehicle home must include approximately $1,000 per year in income to represent the value of his personal use of the vehicle.

These employees should not have to pay tax on an amount representing the value of their personal use. It is not their choice to have a commercial or emergency vehicle sitting in their driveways, and it is quite possible that, but for their employer's requirement, they would be able to find a method of commuting which would cost them less than the taxes they will have to pay on their deemed income.

In summary, the rules regarding the inclusion in income of an amount representing the employee's personal use of a business vehicle should be changed to charge the employee with no personal income in circumstances under which the employee's commuting in the vehicle is a matter of convenience for the employer and a condition of employment, rather than a fringe benefit for the employee.

DISCUSSION OF ALTERNATIVE SUGGESTIONS

IF THE AMENDMENT IS NOT REPEALED, ITS EFFECTIVE DATE SHOULD BE POSTPONED

Because the effective date of the amendment is taxable years beginning after December 31, 1984, the rules are effective for some taxpayers as of January 1, but not for others until as late as December 1, 1985. For those taxpayers for whom the rules are already effective, no cogent guidance is yet available.

The IRS issued one set of proposed and temporary regulations last October, and announced on January 25 that it was working on a substantial revision of those rules.

Six weeks into 1985, we are still waiting to know the applicable rules.

Yet another set of regulations affects the recordkeeping requirements: the fringe benefit rules, proposed and temporary regulations for which were issued January 3, 1985.

We propose that if the amendment is not repealed, that its effective date be postponed, to give the IRS and taxpayers a chance to decide what the rules should be and in which situations they apply.

IF THE AMENDMENT IS NOT REPEALED, ITS APPLICABILITY SHOULD BE CURTAILED.

The purpose of the luxury automobile rules as a whole was to prevent the taking of tax deductions for the personal use of cars, and for the luxury element of the business use of expensive cars.

The limitations on investment tax credits and cost recovery deductions alone achieve that second objective.

The first objective is a rat which has been attacked with an elephant gun. The implementation of the devised solution has created more problems for the IRS and for taxpayers than it is worth.

The revenue estimates for all of the automobile provisions constititue about 1% of the entire increased revenue receipts projected to result from the 1984 Act from 1984 through 1989. Surely the recordkeeping requirements contribute only a very small part of that, and cars worth less than $16,500 are an even smaller portion of that small part.

If the contemporaneous log requirement retained, logs should be required only for passenger automobiles having a fair market value in excess of $16,500. Accordingly, no log would be required for any vehicle other than a passenger vehicle, and no log for a passenger vehicle with a fair market value of less than $16,500.

THE EMPLOYER SHOULD BE ALLOWED TO FOREGO THE DEDUCTION AND CHARGE INCOME TO THE EMPLOYEE

Under present law, a taxpayer can, in essence, decide that it does not want the deduction badly enough to maintain the required records. Even if the employer decides to take this approach, however, he must, under the fringe benefit rules, subject himself to some additional recordkeeping if employees are allowed to use company cars for commuting or other purposes.

The additional recordkeeping is required because, even though the employer has decided to forego the deduction, he is required to account on the employee's Form W-2 and to withhold upon, the value of the employee's personal use.

We recommend that, if the contemporaneous log requirement is retained, the employer should be able to elect to forego the deduction and not have to put the item on the employee's Form W-2 or withhold upon it.

TAX RETURN PREPARERS SHOULD NOT BE DEPUTIZED IRS AGENTS

Although it does not appear in the law itself, the Committee Reports for the '84 Act indicate that if a return preparer does not obtain the required certification from the taxpayer that the necessary records have been kept, the preparer may not sign the return.

This provision in essence requires the return preparer to act as examining agent for the Internal Revenue Service.

It also contradicts the provisions enacted with TEFRA that a return preparer must sign a tax return in which he or she has had any involvement.

The accountant or attorney may find him or herself in the position of being required to sign the return and, at the same time, being forbidden to sign the return.

In summary, the tax return preparer should not be required to obtain a written certification from the taxpayers that the recordkeeping requirement has been met; the taxpayer's signature on the tax return, together with the tax return preparer's signature on the return, signify that each attests, under penalties or perjury that the return is true, correct, and complete.

CONCLUSION

- The 1984 amendment to section 274(d) of the Code should be repealed.

- A fringe benefit exception should be provided for certain personal use of employer-owned vehicles.

- At a minimum, the effective dates of these provisions should be postponed till January 1, 1986.

Mr. LUKEN. Mr. Sefferino, picking up on your last comment, the news release that the IRS put out with regard to amending would not relieve the burden on the policeman, many of whom will be affected here, who take this automobile home because of the convenience of their employer, particularly in the small communities. They would have income attributed to them in the amount of $1,000 even under the proposed revisions. Is that right?

Mr. SEFFERINO. That is correct, yes. There are many other provisions.

Mr. LUKEN. There have been some rumors out that the IRS is going to solve all of the problems with these modifications that they are coming out with, but nothing in this area.

Mr. SEFFERINO. Obviously none of us have had the benefits of these regulations being released, but what we have seen so far, you are absolutely correct. It would not relieve the burden for the inclusion of income for commuting use.

Mr. LUKEN. My comment is that the IRS, issued these sweeping regulations, and then within 2 weeks announced solemnly that they were going to amend them, now 2 weeks later no amendments are forthcoming. We are really speculating as to anything that they might do.

Mr. SEFFERINO. That is absolutely correct.

Mr. LUKEN. And I think your comments with reference to the Paperwork Reduction Act are especially telling to this panel, because the Small Business Committee spent a lot of time and took a great deal of pride in producing the Paperwork Reduction Act, which was supposed to save money, save expenses, especially for small business. That is the purpose of it. And what you are telling us is that even conservatively, this one provision is going to cost the small business people of this country a lot more than we would ever save under the whole Paperwork Reduction Act, right?

Mr. SEFFERINO. That is correct, absolutely.

Mr. LUKEN. $7 billion, and I think your figures are conservative, because 14 million small businesses—14 million returns—is that the figure, Mr. Feazell?

Mr. FEAZELL. Yes.

Mr. LUKEN. It doesn't take much imagination to figure out if there are 14 million small businesses out there, there are more than 14 million vehicles, and that at the figure of 14 million at $500 per year it is going to cost businesses $7 billion, and I might ask an obvious question. Would you expect that that $7 billion would be passed on to the consumer?

Mr. SEFFERINO. Absolutely, after it was also claimed as a tax deduction, then the balance would be passed on to the consumers.

Mr. LUKEN. We assume businesses are not eleemosynary institutions and they are going to pass it on, so the consumers and therefore the taxpayers are going to spend $7 billion in order to save about $100 million. That is 70 times, and these are the figures that the authors, that the regulators have given us.

I think your testimony has been very clear, so I wouldn't want to spend too much more time on it, but I would make one more comment, and that is with reference to the snitch provisions of the law, which says that the accountant must now turn in his client.

Effectively what this does, and I think it goes contrary to American principles not only of government but of traditions of law, where we have established confidential relationships of our citizens with their clergy, with their lawyers, with their doctors, and of course with their accountants on these very confidential matters, and here we are trying to upset that tradition.

Would you agree or have any further comment on it?

Mr. SEFFERINO. Yes. Mr. Chairman, I might add the 1982 Tax Act requires accountants to sign, that they must sign, any return with which they are associated. Now the 1984 Act says we cannot sign a return unless we receive that statement, so there is a paradox there.

Mr. LUKEN. The one law makes you the confidential confidant. The other one makes you the policeman.

Mr. SEFFERINO. Absolutely.

Mr. LUKEN. I have nothing further. Mr. Roemer.

Mr. ROEMER. Quickly, yes, Mr. Chairman. Thank you.

I want to thank the gentlemen for their testimony. I went to school at Harvard. I got a degree in economics, undergraduate, and then I went to the Harvard Business School and got a master's degree in finance. When I grew up I wanted to be an accountant.

Now, when I grew up I wanted to be in the insurance business, but that is another story.

On your point about fringe benefits, it is an area that I have yet to look, but I promise you I will. Your testimony in regard to the need, both of you, to expand the overview to include that, I think, is relevant, and we will follow up on it. We won't stop our current push against the contemporary recordkeeping, contemporaneous—pardon me—recordkeeping requirements, but we will expand it to take a look at fringe benefits. We are caught between a rock and a hard place, the desire to move quickly and the incumbent need to keep it simple, particularly for Members of Congress, on that score.

I would say that one of the most telling portions of your testimony has to do with the IRS's revision, part 2 of their new regulations. Part I raised a firestorm of protest. Revisions, part 2, which we have yet to see, but of which echoes we have heard, make a complex situation, as you testified, even more complex, and make the noncompliance desire even less obtainable.

I thank you for your statement. It has been a big help.

I wonder if either of you have had a chance to communicate with the IRS to ask the noncompliance cost of the law, as it currently stands, that is, in 84(d). Either of you ask that?

Mr. FEAZELL. No.

Mr. ROEMER. One of you used $150.5 million, maybe you, Mr. Feazell?

Mr. FEAZELL. Yes.

Mr. ROEMER. How did you come up with that number?

Mr. FEAZELL. That was the figure which the Treasury Department had issued as a revenue, increased revenue based on this new law, and we questioned how they even arrived at that figure.

Mr. ROEMER. Would you be willing to tell me what they are?

Mr. FEAZELL. It is tongue in cheek, sir. I think that probably what the Internal Revenue Service said is, we will raise $150.5 million in additional revenue, because small business will say forget the automobiles totally, so they deprive themselves of a business deduction they have long been entitled to, and should be, but rather than keep the records, just forget it. Yes, that will raise revenue but I don't think that is the way the American people want revenue raised.

Mr. ROEMER. Let me tell you what I discovered when, hearing about the turn of events regarding this provision, I and my staff began to personally check into it. We found that there was no debate in the House on the issue at all. We found that there was no provision in the House bill at all in regard to this section. We found that both the change in provision and the limited discussion of same took place in the Senate.

In calling the Senate to find what numbers were companion to this debate, that is, we were alarmed about noncompliance, what is the number. There was none. We checked with IRS to ask for their version of the number. There was none. Any numbers that you obtain now are after the fact, and as far as I am concerned, are suspect thereby. Thanks for your testimony.

Mr. LUKEN. The gentleman from Virginia, Mr. Slaughter.

Mr. SLAUGHTER. No questions, Mr. Chairman.

Mr. LUKEN. The gentleman from North Carolina.

Mr. COBLE. Mr. Chairman, I have one question.

I, too, thank you for appearing today. You concluded that you wanted the appropriate section 274(d), I think restored to prior language. In the alternative, you suggested to delay the effective date until July 1, 1986. You gave another suggestion too. I don't recall what that was. There was a third recommendation.

Mr. SEFFERINO. This basically has to do with the crossover of the fringe benefit provisions, where automobiles are provided as a condition of employment or for the convenience of the employer, so that in the policeman's illustration, for example, that he does not have to include an amount in income because he is taking the vehicle home as required.

Mr. COBLE. Thank you, Mr. Chairman. Thank you.

Mr. LUKEN. The gentlelady from Kansas. She is not here.

All right, no further questions. Thank you, Mr. Feazell and Mr. Sefferino for your very valuable testimony. Your statements have been received into the record of this subcommittee.

We would now like to call on Jeanine Hanson from the U.S. Chamber of Commerce. For the benefit of the members of the panel, it would be my intention to go straight through rather than to break for lunch, and also for the witnesses who are waiting. I think that generally suits everybody's convenience. People have planes to catch and things like that. That is the intention of the Chair at the present time, to go right on through.

Mr. ROEMER. Mr. Chairman, I have an 11:30, but I will leave and come back as quickly as I can.

Mr. LUKEN. I thank the gentleman.

Ms. Hanson.

TESTIMONY OF JEANINE C. HANSON, ACCOUNT EXECUTIVE, LINSCO CORP., REPRESENTING THE CHAMBER OF COMMERCE OF THE UNITED STATES, ACCOMPANIED BY FRED KREBS, DIRECTOR, EMPLOYER RELATIONS, AND DEBORAH AIKEN, TAX ATTORNEY

Ms. HANSON. My name is Jeanine Hanson, an investment broker with LINSCO Corp., in Alexandria, VA. I am also a CPA. I am a member of the Council of Small Business of the U.S. Chamber, and also a member of the Virginia Chamber of Commerce.

With me today from the chamber's staff are Fred Krebs and Deborah Aiken. Fred is director of employer relations and Deborah Aiken is a tax attorney.

I have a written statement that I would like to submit for the record.

Mr. LUKEN. Without objection, it will be received.

[Ms. Hanson's prepared statement follows:]

PREPARED STATEMENT OF JEANINE C. HANSON, ACCOUNT EXECUTIVE, LINSCO CORP., REPRESENTING THE CHAMBER OF COMMERCE OF THE UNITED STATES

I am Jeanine C. Hanson, an investment broker with LINSCO, Corp. of Alexandria, Virginia and a member of the Council of Small Business of the United States Chamber of Commerce. I am a certified public accountant and active in both the Fairfax County and Virginia Chambers of Commerce. In October 1984, I chaired the Virginia Conference on Small Business. With me today are Fred Krebs, the Director of the Chamber's Employer Relations Section, and Deborah Aiken, a Tax Attorney with the Tax Policy Center of the Chamber. I am pleased to have this opportunity to discuss the problems created by the Internal Revenue Service (IRS) regulations governing the business and personal use of automobiles and certain other types of property.

The recently imposed IRS regulations affect me personally and they affect tens of thousands of small business owners throughout the country, as well as countless employees who have been subjected to the onerous and burdensome recordkeeping requirements. I commend this Committee for its willingness to address this issue.

Few federal bureaucratic actions in recent years that have generated such a spontaneous, widespread outcry for relief. Indeed, the Chamber has received a remarkable number of telephone calls and letters on this issue. I understand that Members of Congress also have received a substantial number of communications from their constituents.

The U.S. Chamber urges the Congress to repeal section 179(b) of the Deficit Reduction Act of 1984, the provision that resulted in the IRS regulations. We believe the proposed changes to the temporary regulations announced January 25 by the IRS to be inadequate and an

effort to mollify some of the most vocal critics of the rules, while retaining the most egregious and burdensome recordkeeping requirements.

The Original IRS Regulations

Beginning the first of this year, the use of certain types of property susceptible to personal use must be documented by an "adequate contemporaneous record" in order to obtain any business deductions or tax credits for the property. Primarily, this so-called "mixed-use" property consists of cars, vans, and small trucks, as well as boats, airplanes, motorcycles, personal computers and property generally used for purposes of entertainment, recreation or amusement. Although commonly perceived as applicable only to company-owned cars, the recordkeeping requirements are much broader in their application. For example, in addition to company vehicles, these requirements also apply to sole proprietors, partners, independent contractors and employees seeking to obtain a business deduction for use of their own car, or other designated property, e.g. personal computers (if used at home), and airplanes.

To maintain "adequate contemporaneous records," a taxpayer must keep a daily log of, date, purpose, user's name, place of use, odometer readings, and mileage or the length of time used, if appropriate. This information must be entered every time the property is used and at the time of use.

Without proper records the depreciation and investment tax credit (ITC) could be lost on the property. Further, the deduction for the related expenses, such as gas for a car, could be lost. For example, an employer with an employee who chooses not to keep any records will face a Hobson's Choice. Either the value of the use of the car will have to be included in the employee's income, to be taxed to the employee, or the employer will lose the depreciation, the ITC and related expenses. The

requirements for documenting deductions should not be so rigorous and tedious as to push frustrated employees to noncompliance. The result could be that employers will not be able to take advantage of deserved deductions and credits.

Recordkeeping Burden and Cost

The paperwork burden and costs to small (and large) business generated by these requirements will be substantial. For example, the following letter from a small business owner in Lake Charles, Louisiana describes the problem clearly and succinctly:

> I would like to express my concern on the new recordkeeping requirements for employers and employees. I own a small refrigeration company, which at present time uses four trucks and one car. During our busy season (summer) we use as many as 6 trucks. I find this record keeping might help you to get fair taxation, but I don't think you have considered what it will cost a small business.
>
> Our refrigeration trucks make approximately six calls per day, sometimes as many as eight or ten, on an eight hour day. If the mechanic has to spend two minutes at each call writing down the customers name and mileage and two minutes at the start and two minutes at the close of day, he has spent twenty minutes of my time. For this twenty minutes I have to pay him $6.25. I have also lost one half hour of service which would have made $17.50 for me. This one day cost me $23.75, multiplied by five days per week. This amounts to $118.75 per week, times fifty two weeks and you see it would cost me approximately $6175.00 a year for one man. Remember I have four men working for me.

> When the men finish the records, I have a secretary that I have to pay to keep all this straight. This has become an extra bookkeeping burden for her. This will become an expensive recordkeeping for our company. I don't see how you can expect us as American business people to bear this additional burden of doing business. With the economy the way it is now, we are bending over backwards to help keep people working. This extra cost to me does not help. It is costing my business too much. */

Attached to this statement is an appendix containing excerpts from letters from men and women throughout the country. As you review this material, you will see that the principal effect of these regulations will be costly and unproductive paperwork that will result in insignificant revenue. What will result is increased frustration and anger within the small business community, as well as increased costs and decreased productivity.

Numerous questions immediately occur: What about vehicle use in the construction industry that is for the convenience of the employer? What about the use of pool vehicles by multiple employees? What about sales personnel who make use of a personal computer at home? What about ranchers and farmers who make use of an airplane? Why are there special rules for small business owners who have more than a 5% interest in the company?

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*/ Although this businessman's problem may be solved by the modifications announced by the IRS and discussed later, similar difficulties (with the attendant costs) likely will continue to plague the small business community.

To further aggravate the situation, companies (and their tax preparers) now face penalties as negligence is assumed if they fail to follow these recordkeeping rules. In addition, they must maintain these records for six years from the date the vehicle was acquired, even if the vehicle is depreciated fully in three years.

Proposed Revisions by the IRS

On January 25, 1985, the IRS issued a press release announcing its intent to modify the recordkeeping requirements on business use of vehicles. The revised regulations have not been issued as of the date this statement was written, so my comments are based only on the text of the press release.

This modification represents a positive, albeit limited, step by the IRS to rectify the situation. The revised rules will make out the following exceptions to the recordkeeping requirements for vehicles only. They do not make any revisions or grant relief for persons using the other types of property covered by the original regulations.

> Farm vehicles: Self-employed farmers may 1) keep the contemporaneous records for their farm vehicles or 2) keep no records for the vehicles (except autos) that the taxpayer uses and treat 80% of the use as business (deductible) and 20% as personal use (nondeductible) provided that 70% of the farmer's gross income is from farming.
>
> Comment: This provision is too narrow. Many farmers hold outside jobs. If a farmer who intially elected not to keep records has a bed year, he or she could fail the 70% gross income test. In this instance, apparently, the result will be a loss of all deductions for the use of the truck, at a time when this loss would be least affordable.

No personal use: No log will be required for vehicles kept on the premises during non-business hours provided there is only de minimis personal use.

Comment: This exception appears to have limited practical value. Vehicles may not be kept overnight at the business premises for security reasons or to permit calls to be made at the start of the work day. As a result, the exception would be unavailable in many instances.

Commuting: No recordkeeping will be required for vehicles used for commuting only, provided personal use is prohibited and an amount is included in the employee's income.

Comment: This appears to be so narrowly drawn as to be unavailable for most small businesses.

Sales and Service: Taxpayers who spend most of the day using the vehicle to make calls or deliveries may keep no records and either (1) for the use of a car, treat 70% as business use and 30% as personal use or (2) for use of trucks or commercial vehicles, treat 80% as business use and 20% as personal use. This exception will not be available to persons who generally spend their day in the office.

Comment: For the many professionals, small business owners and employees who divide their time between the office and elsewhere, this exception would be unavailable.

Many of the distinctions made by the IRS appear to be artificial and without any substantial merit. In addition, the exceptions add further complications and questions and do little to relieve the overall problems created by the confusing and complicated recordkeeping requirements.

Conclusion

The IRS, and the Congress, who bears responsiblity for passing the underlying legislation, should recognize that if the small business community is to remain productive, create jobs and products, and provide services, we cannot become primarily recordkeepers and generate paperwork on every facet of our activities.

When you look at the temporary regulations, the advertisements for log books, and the pages of explanation about how to comply, it becomes clear this is not an efficient or productive use of a business owner's or employee's time.

I am a certified public accountant, I counsel clients on the need for good business records. I am a professional trained to be sensitive to these things and I have experienced extreme difficulty in complying. I think it is unrealistic to expect widespread compliance with these requirements.

The irony of all this is that the present Administration campaigned, and was elected, on the promises of less government intrusion, less regulation and less paperwork. These regulations run counter to all those promises.

On behalf of the U.S. Chamber, I respectfully urge you to repeal Section 179(b) of the Deficit Reduction Act of 1984 and return us to prior law. Section 179(b) was enacted without Congressional hearings first establishing that there was

abuse in this area. The Chamber believes that following the repeal of this section, hearings should be held. If abuse is found to exist, then a reasonable approach must be developed to correct the situation.

The immediate repeal of Section 179(b) would provide the entire business community with relief from the onerous, excessive and expensive recordkeeping requirements that have been imposed by the Internal Revenue Service.

Ms. HANSON. In addition, I would like to discuss briefly my reaction to these regulations. I think it is ironic that this administration, which was elected on the promise of paperwork reduction and less Government intrusion, would issue regulations as burdensome as these are. At best, these requirements are meddlesome. At worst, they create unnecessary burdens as well as increased costs, and to my knowledge there had been no widespread evidence of abuse to justify these regulations. Cheaters will cheat, but the vast majority of businessmen and women are honest and hard working, and would like to comply with the law.

Mr. LUKEN. If I could interrupt, I think that is a very telling point, that in all of the investigations, all of the discussions I have heard, I have not heard that there has been any evidence presented as to widespread cheating. That was not the basis, as far as I could tell, of the introduction of this feature of the law when it was introduced into the Senate. I think that is a very important point, and I apologize for interrupting, but I just wanted to emphasize that point.

Ms. HANSON. Another point I would like to make is it is very hard to stay current with the tax law. The tax changes have been profuse over the last few years. I give a lot of seminars and I counsel clients, and find it extremely difficult keeping up with all the periodicals that I do read. I find it very difficult to comply with the current law as well as to keep up and know what is going on. This creates a lot of general frustration, I think, on the part of all of us that do make that attempt.

There is turmoil especially because compliance won't be known for a couple of years. The 1984 or 1985 tax returns wouldn't be audited until 1987, so 2 or 3 years from now the effects will be known on what is going on now. The Internal Revenue Service did announce some exceptions for sales and service, but as far as I can tell, I will get, personally, no relief from the regulations, because I spend about 50 percent of my time in the office. As it is currently stated, I would not be able to get that exception.

I wonder also about the arbitrary distinctions by IRS between the types of business that have been singled out for exception. Of course, all of this activity will add increased costs to all of our goods and services. I have talked with many other people. I have talked with CPA's, and had a meeting with professional women and business owners in Fairfax on Wednesday, and across the

board they were all concerned with the impact on their business and on their clients.

President Reagan Wednesday evening, in his State of the Union Address, mentioned the ideal of new freedom in our lives, and this kind of regulation just seems to fly in the face of that. I find it offensive and intrusive, and I would ask that this law be repealed. I want to thank you for having me here and being able to testify in front of you.

Mr. LUKEN. Thank you, and thank you for the video that you helped obtain for us. I think that graphically demonstrated the situation. Your testimony has been very clear, and I have no questions. I can only respond that I for one will do everything I can to see to it that it is repealed.

I agree with you and with the previous witnesses that the patchwork kind of changes that the IRS has now announced that they may come up with, and the mere fact that they are fumbling around is proof enough that they really aren't able to undo the damage that was done, and that we should admit our part in the error, and that we should direct the IRS to undo their part in the mistakes that have been made.

I have nothing further. We thank you very much.

Ms. HANSON. Mr. Chairman, I also have with me about 9 pages of excerpts from letters that were written to the chamber, and I would like to have them submitted for the record.

Mr. LUKEN. We thank you for them and without objection they will be admitted into the record.

Ms. HANSON. Thank you very much.

[Excerpts of letters referred to above follow:]

Appendix to Statement
of
Chamber of Commerce of the United States

EXCERPTS FROM LETTERS CONCERNING IRS RECORDKEEPING REQUIREMENTS

NOTE: The following excerpts are from letters or copies of letters received by the Chamber from businesses throughout the country.

This is to express our very real concern and complaint re the new tax law requiring a log for use of company vehicles. It is especially burdensome for a small drug store which offers free delivery service.

In our case, we make numerous short trips each day - delivery to our various customers, the local hospital and nursing home; business trips to the post office to pick up and send out mail including small packages of drugs to rural and out of town customers; short trips to other drug stores in town to pick up drugs temporarily out; trips to the local doctor's offices to either pick up prescriptions or to send prescriptions which have just been called in over the telephone for signature; and possibly many other short trips.

These many short trips required by our business daily will require a massive log. The entries for just one day are numerous.

Pharmacy
Thomasville, Alabama

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We write to you at this time to strenuously object to the new IRS recordkeeping rules as pertain to corporate vehicles. For the record, we are an Independant Insurance Agency with the majority of our business generated within a 10 mile radius of our office. Prudent servicing of that existing clientele and the generation of similar new business require numerous customer calls, usually not comtemporaneously made. Such customer calls could occurr for any of the following reasons: property and underwriting inspections, policy delivery, "cold" calls, sales presentations, mid-term reviews or other varied customer services.

Our efforts to comply with the regulations of maintaining a detailed log over the last three weeks are proving ludicrous. Proper compliance with the regulation, as we've been advised by our accountant, requires entry of each trip. Of our five vehicles affected we are approximating 6-8 daily entries in each log, with on occasion as many as a dozen. The majority of those entries reflect mileage useage of less than 6 miles each call. While not professing to be tax authorities, we believe there must be a better way to justifiably allocate legitimate operating business expenses to the business entity than that proposed. Certainly the added direct expense to this firm to maintain the required records as a prerequisite to qualifing as a bonafide operating expense seem truly counterproductive.

Independent Insurance Agency
Claremont, New Hampshire

****

I am very upset with my accountants interpretation of the new law regarding use of business motor vehicles. I am a small general contractor who has my business address in my residence, and have two trucks. One is a 1956 dump truck that I use to haul refuse from various jobsites and haul a lot of gravel or dirt occasionally. I've had this truck for ten (10) years and have put only 6,000 miles on it. The other truck is a 1978 pickup and has approximately 60,000 miles on it. I(t) would be very difficult to keep an accurate account of every place I go in the course of one working day. In a typical day, I may go to the various jobsites, lumber yard, and other sources of supplies as well as go check on calls for new job prospects.

If I wrote down my start and stop mileage every time I got in and out of my truck on some day I could not get it all on one 8 1/2 x 11 sheet of paper, which would require 1/2 to 1 hour per day of my working time at the expense of my customers.

General Contractor
Troy, Ohio

****

We are a small manufacturers' representative with three outside salesmen and no in-house accountant. The entire record keeping load falls on our shoulders, especially mine since I'm the president.

Yesterday, for example, I made four calls, took two people to lunch, tried to conduct business discussions, and in between, maintained a complicated log of my four stops. The whole thing was ridiculous to the extreme. I should have been driving a truck.

Manufacturers' Representative
Tigard, Oregon

****

Imagine, if you will, the impact of something like this upon you. Consider, as you often do, hustling between simultaneous meetings of the Agriculture and Finance Committee with important amendments for Oklahomans in measures being considered by each Committee . . . and suddenly . . . right in the middle of that activity . . . you are forced to stop and count the steps you made down each corridor that day. Sure, that's crazy - - - But that's <u>exactly</u> what Congress has asked the businessmen of America to do. To <u>stop</u>, <u>record</u> and <u>log</u> their auto miles right in the middle of their daily work. It's distracting, time consuming and silly!

Local organization
Oklahoma City, Oklahoma

****

The temporary regulation which requires log keeping records, previously required only for company autos, to be extended to all transportation vehicles (ie, trucks, tractors, buses, etc.) is unreasonable, costly and far exceeds the intent of Congressional legislation. It is totally unrealistic to believe that a 45 foot semi-trailer attached to a $75,000.00 truck tractor is going to be used for personal use. Even two ton and larger straight trucks do not lend themselves to running errands on city streets.

We have over 140 vehicles operating throughout the state of Arizona, and to keep daily logs on the mileage for all these vehicles will be an extreme hardship, financially.

The federal government has been attempting to reduce record keeping. This is in direct opposition to that effort, for very little gain in additional tax revenue.

Moving & Storage Company
Tucson, Arizona

****

I am sure you must have heard from many other businessmen, but what in the world is going on on these new recordkeeping requirements for automobiles, airplanes and others with which I am not personally concerned? The detail to which the the IRS is telling us that we must maintain a log for each piece of equipment is ridiculous.

I know that our little business cannot bear this additional and unnecessary recordkeeping requirement. We have only 17 automobiles and 2 small airplanes, but the additional requirement of paper generation interfering with our normal business operations will cost us thousands of dollars a year and for no good purpose.

Architectural Firm
Wilmington, North Carolina

****

We have a small propane gas business and are keeping records on our company vehicles as required by the I.R.S. This requirement is ridiculous, very time consuming and expensive. It takes at least an hour each day per vehicle to keep these records as they must be kept. Our servicemen are not able to make the service calls they should because of this time consuming law. I also personally estimate jobs, make service calls and do anything that is required as owner of a small business. When I say small, I mean around $600,000.00 gross business per year. We have to make every minute count to compete with big business in our type of work.

Our servicemen are required to drive the vehicle home as they are on 24 hour call duty. This includes myself as owner and also our manager. If our serviceman has to drive his vehicle from his home to our office to get the

company service vehicle and then on to the customers place, then the customer has quite a large amount of extra time that will be billed to him as a service call.

Gas & Appliance Company
Spruce Pine, North Carolina

****

We are a local roofing contracting firm, established in 1962, employing sixty to eighty people. We are already burdened with onerous paper work requirements as mandated by both State and Federal agencies, particularly so since we often perform work directly for them.

The detailed record keeping, which is part of this additional requirement, is interfering with our usual business operation. Time spent daily keeping these records is not productive to our company, so that less actual work is being performed each day. Therefore, our cost of doing business increases. Our only recourse is to charge more for our services, or go out of business. We, of course, will not go out of business by choice; we will reluctantly increase our charges. Most other small businesses faced with the same requirements will have to do the same, so that collectively we will be adding to inflation pressures while our productivity decreases.

Roofing Contractor
Concord, California

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It is almost beyond my imagination when I see the new rules of massive and expensive record keeping you people have thrown at businesses and employees in order to justify business use of autos, trucks and vans.

What you are doing is building a nation of record keepers to satisfy your own inept bureaucracy. To catch a few, you are causing millions to spend more time on wasted and non-productive work. There are only so many hours in a day.

Hose Manufacturer
Houston, Texas

****

We are a small waterproofing and roofing contractor in North Little Rock with about 15 vehicles in our organization. The ruling by the I.R.S. would be next to impossible for us to carry out unless we hired an extra employee to do nothing but keep records on our trucks, because they are driven by so many different people and go to so many different places and in lots of cases one to three different drivers each day.

Roofing Contractor
North Little Rock, Arkansas.

****

In past years I have always reported and been taxed on a liberal valuation of limited personal use of my company vehicle, but of course cannot attest to a universal application of such type disclosures by all persons and abuses surely occurred. However, the current mandatory provisions that detailed logs be kept for every mile of company use of company vehicles is an inordinate and unreasonable stipulation, or otherwise risk having no business deduction of company equipment used on company business and in turn likely "taxed" to the private individual using such equipment if detailed records not be kept. The regs turn our employees into an army of petty bookkeepers, affecting their morale and sharply reducing their cost effectiveness on a day-to-day basis in order to comply with bureaucratic tediousness and details.

Surely Congress can find a better, alternative manner in which to equitably and fairly raise necessary revenues to reduce our current outrageous deficit, it in turn largely caused by an unbridled and undisciplined spending by Congress for decades.

Resource Management Company
Birmingham, Alabama

****

I would like to know how this law covers government employees, and politicians. At least the small businessman earned the car or truck that he may on occasion, use for private use. The above mentioned government involved vehicles, cars and limousines were paid for by taxpayer's money.

The way you are going you are destroying all incentives to be in business, it would be much easier to get a job for 40 hours a week and not have all the headaches that go along with building and running a small business. With the government heart burns and employee problems, business is simply not as rewarding as it used to be. But I guess this does not concern you.

Mail Order Company
Pennsylvania

****

We were recently advised that our electric utility Co. will now have to record all mileage driven in company owned vehicles for business purposes. Upon checking, I find that this will result in a significant additional record keeping burden for 19 of the 26 vehicles in our fleet.

By the very nature of our work, which is maintaining electric service around the clock, over 90% of our fleet's mileage is for business purposes. All vehicles presently designated for mileage logs have 2 way radio communication installed to monitor service work in our service territory and to have the vehicle's operator available anytime that emergency contract is necessary. Everyone in our company who is assigned a utility car or service truck also has their own vehicle at home for private use.

Due to the regulatory aspect of our business, we are already swamped with extensive record keeping duties and the imposition of this additional mileage log is one more burden that further reduces our ability to operate efficiently.

Utility Company
Vermont

****

This is the most time-consuming and burdensome provisions that our company has ever had to face. We are a small business and the inconvenience and expense interferes with our normal business operations. We feel that if this provision is not revoked that it may result in the failure of many small businesses.

Heating, Air Conditioning & Refrigeration service
Danville, Virginia

****

We feel that there are other easier, less burdensome ways to ascertain personal use of company vehicles, i.e, mileage to and from employees home, percentage of cost or other agreed method of determination that will not require a "shot gun" rider to keep the books.

Electrical Contractor
Sacramento, California

****

At every meeting I attend, and that's a lot, I hear extreme dissatisfaction with the new IRS recordkeeping requirements on autos. Out of hundreds of comments I've heard, not one person has said they had any intention of complying. Most have said that, if anything, they'll sit down on a slow afternoon and use their imaginations to write up a log.

Local Business Organization
Cleveland, Tennessee

****

As one who is in the business of providing a service for people who are sick and handicapped, the paper work involved, already creates costly and time consuming recordkeeping.

Medical Products & Services Company
Marlton, New Jersey

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Once again politicians and bureaucrats have worked together to create a gigantic boondaggle that will cost American businessman (sic) and industry billions of dollars in administrative costs. All for the privilege of paying more tax dollars to support the ever increasing deficit which has been, and will continue to be, proliferated by these same politicians and bureaucrats. It sounds to me like another "three martini lunch" boondaggle of the Carter Administration.

It sure is a pleasure to know that you are simplifying our taxation structure and record keeping to this extent.

Manufacturing Firm
Lansing, Michigan

****

We have underway cost-cutting programs in an effort to keep our expenses such that we can maintain equitable electric rates. The additional burden of these new regulations will be an element that could tip the balance, making it necessary for us to increase the electric rates to our 40,000 customers.

Power Company
Michigan

****

When will our legislators and the bureaucracy they control learn that a business does not really have costs? Businesses (unless they fail) pass on all their "costs" to their customers. By definition, if a business is profitable, it had no cost. The customer (consumer) paid everything.

If you, through legislative act or uncontrolled agency rulemaking, increase business cost, you just increase the cost of our goods or services and the consumer (customer) eventually pays it all. It's really very simple.

Storage Company
Benton Harbor, Michigan

****

We transport children to public schools. We transport thirty-five children to twelve schools.

Under your new system, each of our drivers is stopping and recording information when he should be watching the children.

Transportation Company
York, Pennsylvania

****

This law is requiring us to use one of our most valuable commodities .. time .. to generate paperwork instead of sales. This factually reduces tax dollars that would otherwise be generated by the productive use of our time.

Automotive & Tire Equipment Dealer
Monroe, Louisiana

****

It is obvious that this requirement was enacted by a government agency since only such a bureaucracy could afford the administrative burden, cost, time, and staff to administer it. Certainly business, particularly small business, cannot without drastic cost increases and productivity deficiencies.

Small businessman
Washington, D.C.

****

It is tragic when leaders pass laws that are "unworkable", either because they are too biased, unenforceable or simply get completely buried in the oceans of paperwork they generate. The tragedy comes when the law is repealed or greatly amended and the populace feels they have "won over the system" and their elected leaders have made yet another bad decision.

Such is the case with new for 1985 "Auto Recordkeeping Rules". Reading current newsletters from prominent sources, it appears that this rule also covers computers, one of which is writing this letter.

One wonders what will be covered next as I sit here looking at the photocopy and mailing machines in my field of vision. A slight turn to the right reveals our toilet, seen through an open door. Next to the toilet paper could sit the log showing "the time, date, purpose, user's name, place of use and mileage, or length of time used".

And who said that 1984 is over?

Management/travel Consultants
Pensacola, Florida

****

This unprecedented burden is very costly and time-consuming to me and several of my employees. Trying to exist as a small businessman today is already difficult and discouraging with so many requirements, rules and regulations imposed by the Federal government, the state, the country, the city, and even the governments of the three adjoining states -- just because we drive across their borders occasionally. Where is this going to end?

Paper Manufacturer
Wilmington, Delaware

****

It seems that all that Congress can do is tax and spend, tax and spend, tax and spend. The attitude seems to prevail in Washington that all of the citizens are here by the grace of Congress and not by act of God or accident or birth.

Bank
Immokalee, Florida

****

The time, effort and expense involved in maintaining these records to satisfy the IRS constitute in effect an additional tax, certainly beyond that intended by the Congress when the bill was enacted into law. It is reminiscent of the tax imposed by the British Crown on the American colonies which gave rise to the Boston Tea Party.

Attorney
Long Beach, California

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While I realize that the I.R.S. tends to operate without regard for other branches of government, I'm hopeful that this time Congress will see fit to put on the reins. Believe me, anything you can do will be greatly appreciated by your Alaska constituency.

Advertising Agency
Anchorage, Alaska

****

In my opinion the costs of compliance far outweigh the "revenue enhancement" impact of this provision. It appears the I.R.S. is shooting mice with an elephant gun, with the obvious result of the mice being the loser.

Engineering Company
Emeryville, California

NOTE: Many of these letters were written prior to the January 25, 1985 announcement by the IRS of their intent to revise the regulations.

These regulations, once adopted by the IRS, may eliminate or reduce the burdens for some of these businesses. Nevertheless, even if revised as announced, numerous problems with the regulations will remain.

Mr. LUKEN. Is Albert Conners here? Albert Conners is the treasurer of the International Association of Fire Chiefs. With him I believe is Bill Summers of the International Association of Police Chiefs. We expect they will have testimony with respect to this law, especially with those in the front line of our law enforcement, of those who respond especially to emergencies. We will therefore ask you gentlemen to give us your testimony. Do you have something in writing?

Mr. CONNERS. Yes, sir.

Mr. LUKEN. You are with the Fire Chiefs.

TESTIMONY OF CHIEF ALBERT W. CONNERS, TREASURER, INTERNATIONAL ASSOCIATION OF FIRE CHIEFS, ACCOMPANIED BY LAURIE J. MICCICHE, NATIONAL LEAGUE OF CITIES, AND WILLIAM SUMMERS, SUPERVISING ATTORNEY, INTERNATIONAL ASSOCIATION OF POLICE CHIEFS

Mr. CONNERS. My name is Albert W. Conners, treasurer of the International Association of Fire Chiefs. Our organization represents 8,200 career and volunteer fire chiefs who are responsible for directing fire prevention and control activities, emergency medical services, airport crash-fire-rescue services, hazardous material control and other emergency responses to disasters of all types throughout the Nation.

I am also the Fire Chief and Emergency Preparedness Coordinator for the City of Farmington, NM. I am familiar with both paid and volunteer fire departments.

Coincidentally, approximately 2 years ago I responded to a fire bombing at an IRS building. I did not keep a log as I went, but I assure you I can best understand the frustration and motivation that the perpetrator experienced.

I am here to point out to you the many and serious concerns of our Nation's fire chiefs to the recently announced IRS regulations regarding the taxation of "employer-provided" vehicles and the inherent recordkeeping tasks associated with those new rules.

Fire chiefs and other senior fire department commanders are often furnished with an employer-provided vehicle so that they can be on call 24 hours a day and therefore be instantly available to respond to emergencies in their communities. These vehicles are usually equipped with lights and a siren to speed their movement through traffic. They are also equipped with mobile radios that allow individuals to be in communication with other responding units and agencies while en route to these emergencies in their communities.

I can assure you that these vehicles are easily identified and are not a perk available for a trip to a local tavern to watch football on a big-screen TV. The taxpaying public would not, and does not, tolerate such abuses. The public at large serves as a very effective watchdog in such matters. These employer-provided vehicles are a necessary and important element of public safety and essential services in our communities.

Fire service agencies are not the only personnel affected, however.

Consider the need for oncall utility crews to respond quickly to cut natural gas or electrical services at emergency scenes—delays from these people can prolong utility company response and lengthen the time that firefighters must work with live power and gas lines during their already dangerous activities. Reduced firefighter safety may well result. Police, public works, civil defense, and a host of other essential agencies are also affected by these regulations. Each impacts on the public safety.

The new regulations may very well reduce the number and availability of personnel willing to serve in these key on-call situations. Instead of being available 24 hours a day, 7 days a week, these essential personnel may well pull back to routine 40-hour-a-week availability, thus reducing public safety services during nights, weekends, and holidays.

Those public safety personnel who do continue such oncall status are certain to require or negotiate additional wages and salaries from their employers to meet the increased taxes they will pay under the regulations.

The bookkeeping required by the regulations also impacts negatively on these personnel. I find it hard to believe that off-duty emergency personnel would delay their response when called to an emergency so that they might complete their IRS log or take the time after a 3 a.m. blaze to maintain such logs.

Volunteer firefighters who utilize mileage deductions are especially affected and delayed by such ridiculous recordkeeping detail.

The International Association of Fire Chiefs considers the new regulations to be poorly promulgated, ill-advised, and extremely harmful to those dedicated people responsible for providing public safety and essential services in the communities throughout our Nation.

At the very minimum, we feel strongly that the regulations must be immediately modified to exempt public entities and related essential services from the income penalties and bookkeeping requirements, and we warn the House of Representatives of severe negative impact that will result if the regulations remain in effect.

Mr. LUKEN. We thank you very much.

Mr. Summers, International Association of Police Chiefs.

TESTIMONY OF WILLIAM SUMMERS, SUPERVISING ATTORNEY, INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE

Mr. SUMMERS. I am William Summers, Supervising Attorney on the staff of the International Association of Chiefs of Police. We are a membership organization made up of 14,000 members in 61 nations. Normally when we make statements such as this we say we speak for the majority of law enforcement. I think I can safely say I am speaking for everybody in law enforcement today as well as public safety.

I think the rules and regulations are unfair, unworkable, and ill advised, as has been pointed out. My understanding is that if an officer is permitted to drive his vehicle home and is not permitted to drive it after he arrives home he may pay a flat fee of $4 a day. If, on the other hand, he is permitted to drive it after hours off duty, so to speak, he can use the safe harbor requirements of 70–30,

and the employer must in fact withhold Social Security and income tax.

Now, in order to determine the fair market value or what the taxation will be based on his being permitted to drive the car after hours, they will look at the annual lease value of a vehicle. The first question that I would like to propose to the IRS is, what is the annual lease value of a police vehicle? Is it pre-police package, and if it is present police package, is that pre-lights, pre-sirens, pre-radio, pre-cage, pre-gunrack? What about the expenses that are incurred at the manufacturing level of heavy-duty suspension, exhaust systems, oversized tires, oversized wheels, and certified speedometers?

There are several purposes for take-home cars, and it isn't necessarily to benefit the officer. Officers are on duty 24 hours a day. They must respond to emergencies 24 hours a day. While commuting or driving their personal vehicles off duty, they must have in most agencies their radios on and required to respond to emergencies or assist the motoring public. This requires maintenance on the vehicles because the individuals take a pride in the vehicles as if they had their own cars.

It also is beneficial to the neighborhood. More people and more visibility, increased visibility, and the working establishments around the community that see the vehicles pulling in after hours.

One of the largest areas of our concern is rural areas. You have many officers in State agencies and sheriff's departments who actually work out of their homes. They may not go to the office or the barracks. They may respond to calls from home, and that is how their normal day is started and ends, from their home, and they are required to have their radios on at that time. You have undercover officers who are driving unmarked vehicles with emergency equipment, or maybe even without emergency equipment that are as a result of their undercover assignment, they must commute from their homes.

I think that we may see a lot of the officers requesting that they no longer be permitted to have take-home cars, because of the burdensome regulations and/or having to pay fringe benefit taxes on them. As one police chief told me, an officer is permitted to pay for the benefit of being called out to the scene of a tragic accident or violent crime scene at 3 o'clock in the morning.

Another problem we have heard voiced from many agencies is the lack of storage, because they have allowed take-home cars. The State of Maryland, Montgomery County, for example, have take-home car programs. They don't have storage facilities. What about the areas out west, Montana, North Dakota, where you have to plug cars in in the evening. They don't have the facilities to plug the cars in to keep them warm, so they can respond to emergencies.

I think it will also be an administrative nightmare for employers, to go ahead and attempt to administer these regulations. That is all I have to say. As I said, I will submit a statement. I would be happy to answer any questions at this time.

Mr. LUKEN. Mr. Conners I think your testimony has been extremely interesting. I would like to talk about one phase of it. You mentioned, I believe, that volunteer firefighters who utilize mileage

deductions will be especially affected. Now, are you talking about volunteer firefighters who use their own automobiles in connection with their duties in putting out fires?

Mr. CONNERS. Both types of volunteers would be affected, Mr. Chairman.

Mr. LUKEN. Let's talk about those who use their own automobiles. There are part time or volunteer firefighters who use their own automobiles; isn't that right?

Mr. CONNERS. That is correct, and they are allowed a deduction for a charitable contribution, if you would, for their mileage, and we see this regulation easing into the area where they will be recording that also.

Mr. LUKEN. But many of them, in addition to those who are allowed a charitable contribution deduction, many of them do receive a small amount of pay, a nominal amount of pay, which they would be entitled to as a deduction against that pay. They are really part-time firemen; isn't that right?

Mr. CONNERS. That is correct, Mr. Chairman, but they also pay income tax on that very small fee.

Mr. LUKEN. That is right. So they are entitled to a deduction. They receive a modicum, a small amount of pay. I mean, we are all familiar with that. We represent these folks. I represented a small city a few years ago, and I am aware and most people are aware of the fact these are dedicated people who actually respond to the emergency calls, the fire calls and the life-saving calls, and they use their own automobiles, and they may receive $5 a call or $10 a call, or whatever, or a small amount, and then they take the deduction.

But in this case, with the regulations that are now in effect, that volunteer or that part-time person who is called to a fire or called as a paramedical or as a life-saving person called to an emergency must, before that person makes the call to save a life or to prevent further injury, must stop and mark the odometer reading; isn't that the literal interpretation here?

Mr. CONNERS. If he is going to be lawful.

Mr. LUKEN. If he is going to comply with the law. And as you pointed out—and I had the experience recently—and those of us who live in the more temperate or colder areas of the country had the experience recently—we had in Cincinnati a cold snap and there were a lot of other people who were denied heat in their homes for a while, for days, some of them. And in our particular case our pilot went out, and our hot water heater, and that was a rather mild inconvenience compared to those who were denied heat. And yet it was an inconvenience, and it was a delay for a couple of days as a matter of fact, and this kind of thing happens.

Here again, what bothers me about this is that it would be a real disincentive for those utility company employees to take their cars home and be available for this kind of emergency. Isn't that right?

Mr. CONNERS. That is very correct.

Mr. LUKEN. That is the point that you were making before.

Mr. CONNERS. We are really concerned about the motivation aspect. The cities cannot prepare for all the myriad of events that they are going to incur, whether it is utilities or municipal services, and we utilize these on-call people to really help us with

second- and third-alarm situations, et cetera. We need to keep these people motivated.

Mr. LUKEN. Do you see the possibility of dangerous situations arising out of these attempts by public safety personnel to comply with the regulations?

Mr. CONNERS. I might give you a scenario, Mr. Chairman, of the house fire where the firefighters were on the scene and have called for the gas company, and the gas company employee, instead of being able to respond directly from his home, goes to the location where they garage the vehicle for him now, and then responds to the scene and then in the interim a possible gas explosion or electrocution. We are really concerned about these matters.

Mr. LUKEN. In sum, I think one of you has properly stated what the Congress in its error last year, and the IRS in following through on it, what we have done is to attempt to excessively regulate and to replace the rule of reason. In the interpretation of these cases, what we are bringing up now are cases where there is going to be real hardship, not just inconvenience but real hardship and actual suffering, loss of life even, that may result from regulations of this kind, that can be avoided, if we simply allow a rule of reason which was the previous rule to apply, so that the IRS can work it out on an individual case basis, depending upon the circumstances.

Mr. CONNERS. Well put.

Mr. SUMMERS. Yes, Mr. Chairman.

Mr. LUKEN. That is all I have. Are there any questions or statements? Is there anything further?

Mr. CONNERS. No, sir.

Mr. LUKEN. Thank you very much for your very cogent testimony here.

[Mr. Summers' prepared statement follows:]

PREPARED STATEMENT OF WILLIAM SUMMERS, SUPERVISING ATTORNEY, INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE

Good morning Mr. Chairman and members of the Committee. I am Bill Summers, Supervising Attorney for the International Association of Chiefs of Police and appreciate this opportunity to express the views of the IACP concerning the regulations issued by the Internal Revenue Service regarding the "contemporaneous record-keeping requirement" for employer-supplied vehicles and the treatment as a "fringe benefit" of employer-supplied vehicles.

The International Association of Chiefs of Police is a membership organization with more than 15,000 members in 65 nations. The vast majority of our members are from within the United States and may very well be adversely affected by these unfair, unworkable, and ill-advised regulations. Generally, when a representative of the Association appears before a Congressional Committee to testify, the representative maintains that he is speaking on behalf of the vast majority of the law enforcement community. I do not believe that that is the case in this instance. I strongly believe, based on the number of telephone calls and letters the Association has received, that I am speaking for virtually all law enforcement in the United States.

As I stated earlier, it is my understanding that we are dealing with two separate and distinct yet mutually disturbing set of IRS regulations.

The first set of regulations requires the officer to keep "contemporaneous" records of personal use of the vehicle. Imagine, if you will, an officer hesitating to take down the mileage while theoretically "off duty" and responding to an emergency. Although this scenario may appear to be ludicrous it is exactly what would occur if an officer was to literally adhere to the "contemporaneous record-keeping" regulations.

An officer may be exempt from the "contemporaneous record-keeping" requirement provided the employer taxes the "off duty" use of a vehicle as a "fringe bene-

fit." If this method is chosen, the IRS assumes that 70% of the use of the vehicle is business while 30% is "personal." The method set out for calculating the officer's tax liability under this provision is as follows:

The "fair market value" (FMV) of the vehicle must be determined. IRS has created a table of "annual lease values," (ALV) which correspond to the FMV. For example, a vehicle with a FMV of $6,000 has an ALV of $2,100. The ALV is multiplied by the percentage of time the car is used for "personal" purposes and the resulting figure is construed as income and thus taxable. This ALV applies for four years at which time the FMV would be reassessed.

If the employer pays for fuel, this must be valued separately at FMV based upon all facts and circumstances, or in the alternative, it may be valued at 5.5 cents per mile for all miles driven by the employee.

Use of this special rule described above is optional. It provides a "safe harbor" (70% business use, 30% personal use) for determining the value of the fringe benefit which will not be questioned by the IRS. If another method is used, such as "contemporaneous record keeping," it will be given closer scrutiny.

The aforementioned applies to those circumstances where an officer is permitted or required to operate the police vehicle while "off duty." In cases where the employee is required to commute in an employer-provided vehicle for a noncompensatory business reason and the employer's policy is that the employee may not use the car for personal purposes other than commuting and the employee does not so use it, another special rule is provided. The commuting is valued at $4 per day for each day the automobile is used for commuting. Therefore, the officer's taxable income is increased by $4 for each day he commutes in the employer-provided police vehicle.

I have just completed my discussion on the procedural requirements, as I understand them, for the two sets of IRS regulations dealing with "contemporaneous record keeping" and taxation of take-home cars as a "fringe benefit." I would now like to illustrate a few of the inequities and troublesome issues created by the regulations.

First, I would like to express outrage that the use of a public safety vehicle by a public safety officer could be treated as a taxable "fringe benefit" or subject to "contemporaneous record-keeping" requirements. The availability of a police vehicle to "off-duty" officers is essential to the adequate protection of the citizens of the United States. "Take-home" car programs are an effective means of increasing the presence of patrol officers in our communities. To impose tax consequences on police officers under these circumstances would diminish the use of police vehicles by "off-duty" officers, resulting in an enormous and uncalculable loss of enforcement man-hours; a drastic increase in time required to respond to an emergency; and great economic cost to the taxpayer.

It is not possible to separate business use from "personal" use of a police vehicle. Every time a police officer is in his vehicle he is required to maintain radio contact and respond to calls whether technically on duty or not. This situation does not apply only to those officers permitted to use the police vehicle for commuting. It applies equally as well to those officers permitted to use the vehicles while theoretically "off duty." It must be remembered that virtually all law enforcement officers are subject to call 24 hours a day and must respond to emergencies when called. Take-home car plans insure call back within a minimal time frame. Further, it is often the case that officers provided with a vehicle for commuting purposes or officers permitted to operate the vehicles while "off duty" are required to assist motorists and respond and assist when necessary. In rural areas officers are often "resident" officers and work from their homes. They may go to the station for occasional meetings or submission of required reports. In many areas these officers are provided gas cards so as to minimize the necessity to "commute" to the station to obtain fuel for the vehicle.

Undercover officers are often working on assignments where the "commute" to pick up an undercover car might jeopardize the officer's safety as well as increase critical time frames that might cause the officer to leave undiscovered or lose critical evidence.

The withholding of social security and income taxes will create an administrative nightmare for federal, state, county, and local governments. There are numerous additional record-keeping requirements for governmental entities as a result of these regulations. The increased cost to the taxpayer for compliance will assuredly outweigh any increase in moneys received by the IRS. Further, many agencies that have take-home plans simply do not have adequate secure storage facilities available to store the vehicles if officers declined to take them to the officer's home. Maintenance costs may very well escalate. This may result from the vehicle being assigned to more than one tour of duty or the reduction in pride by individual offi-

cers who may be less likely to maintain a vehicle that is not provided solely to them.

In essence the Internal Revenue Service is requiring police officers to pay for the "privilege" of providing service to our citizens over and above the officers' long hours of daily activity without additional compensation. Take-home car plans increase visibility within the communities and increase vehicles on patrol without increasing costly salaries. One state law enforcement agency has reported that over 40,000 enforcement hours of patrol were provided by "off-duty" officers in 1984 with 6,200 incidents being handled by "off-duty" officers.

If I may digress for just a moment and pose an additional concern; if these regulations are permitted to remain in force, and if an officer is permitted or required to operate a police vehicle while "off duty," how does one calculate the "fair market value" of the vehicle? Is it based on the cost of the vehicle as equipped for police service—that is with a radio, light bar, siren, prisoner-restraint cage, gun rack, spotlights and markings? Or is the "fair market value" based on the value of the car as it leaves the manufacturer? If the latter is true, it does not take into consideration those "options" that are required for police service, but differentiate a police vehicle from other vehicles. These "options" include heavy-duty suspension, brakes, certified speedometers, over-size wheels and tires, larger engines and cooling systems, and duel exhaust systems.

Therefore, it would certainly appear to be inequitable to tax an individual for the increased "fair market value" of a vehicle that is a working condition of employment as a police officer.

To conclude, it is our citizens who are the prime beneficiaries of take-home car programs, not the police officers. It is our citizens who will suffer if the programs are curtailed as a result of these ill-advised and unfair regulations. The presence of "off-duty" police in marked police vehicles increases with minimal costs, the visibility of our police officers. Few if any agencies can afford to achieve equal visibility with increases in personnel. Around-the-clock availability of all officers assures our citizens that protection is close at hand while deterring crime.

On behalf of the members of the International Association of Chiefs of Police and the citizenry at large, I urge Congress to prevent enforcement of both sets of regulations as it applies to police, fire, and emergency vehicles.

Mr. LUKEN. Is Mr. Ragland here? Robert Ragland, who is director of taxation for the National Association of Manufacturers. Mr. Ragland, I think we have your prepared statement here. Without objection, it will be introduced into the record. You may proceed in any manner you think will be most helpful.

TESTIMONY OF ROBERT A. RAGLAND, DIRECTOR OF TAXATION, NATIONAL ASSOCIATION OF MANUFACTURERS

Mr. RAGLAND. I will proceed in a short and sweet manner. On behalf of our 14,000-member companies and 158,000 affiliates, I am pleased to have this opportunity this morning to discuss regulations which have been imposed by the Treasury Department in the matter of recordkeeping for the use of corporate vehicles and other company property. The regulations which were published on October 24 by the Treasury Department require American businessmen to keep highly detailed records on the use of cars and other property used in the active conduct of trade or business which might also be available for personal use.

The purpose of the law and the regulations implementing it is to establish a limit on the depreciation deduction and the investment tax credit, which were limited by the Deficit Reduction Act to a prorated amount equal to actual business usage.

The Treasury believes that the only way to establish these limits is to require taxpayers to become file clerks for the Internal Revenue Service, keeping detailed records for every mile driven, with whom, where, and for what purpose. This exercise is essentially shifting the burden of proof onto the taxpayer, and it presents an

administrative nightmare for businessmen large and small in every corner of the land.

The cost of this nightmare, based on a quick survey conducted by one of my colleagues, shows several results. The impact on small business is considerably greater than large on a per vehicle basis. Small manufacturers reported to us a cost essentially of $1,000 per vehicle while large companies ranged from a low of $333 per vehicle to a high of essentially $500 per vehicle. Curiously enough, there were economies. The larger the company the higher the cost, but the largest company in our survey still only came up with $333, which was a substantial number when considering that that $333 applied to 24,000 vehicles nationwide, for a total cost of $8 million per year.

The number of $500 per vehicle was based on 10,000 so-called installer vehicles located nationwide, and produced a cost of essentially $5 million per year.

Many companies large and small have decided essentially to accommodate these regulations by dumping their fleets. This shifts the burden one step further down to the taxpayer, and for your purposes, to the voter. Some of them will keep the logs; others will not.

All of the companies reported to us that they will respond by passing on as much of the additional cost as they can. That decision will be dictated by the market, how much more they can increase the cost of a widget, is it a penny, is it a nickel? Can the full cost be put through? If it can, it will be.

In some cases some of our companies are acting under court orders, which require that the full cost of service be documented and demonstrated to the paying public, and if you need any evidence of that, I think all you need to do is take a look at your telephone bill. I don't know about yours, but mine is about 9 pages long. That was an upshot of the decision in the courts that the phone company demonstrate what the actual costs were for each of the services they provided, and to demonstrate it to the paying public.

I think it would be particularly ironic if we ended up with a 10 page bill showing what the phone company had to pay to comply with this thing. Recognizing the unreasonable nature of these proposals, Congress demanded relief from the Treasury Department. On January 25, the proposed regulations were withdrawn. Some changes were promised and hearings were canceled. To date, no new proposals have been published, but if they follow the outline that we have been presented with, they will be woefully inadequate.

For example, for trucks there will be a safe harbor provision, allowing 80 percent business and 20 percent personal usage, and for automobiles a 70–30 rule will apply. Based on testimony that has been presented by other people to other committees, we find these numbers to be absurdly low. The trucks are probably used in the nature of 95 percent of the time for business, 5 percent for personal purposes, and automobiles in the nature of 15 percent personal, 85 percent business. These numbers were developed by one of the Nation's leading firms, and they are based on a coast-to-coast record that they have been keeping for some years.

Accordingly, the NAM urges the Congress to do two things: One, enact legislation repealing the contemporaneous recordkeeping requirement. Second, prohibit Treasury from enacting punitive provisions by regulations with respect to fringe benefits. I have outlined the administrative burden on the contemporaneous recordkeeping provisions. I need to emphasize that virtually identical regulations are proposed dealing with the imputation of income under section 132 of the Internal Revenue Code.

Also in the act Congress made clear its wish that Treasury require employers to impute income for the personal use of business property. With this provision we have no particular quarrel, but we do quarrel with the staggering sums proposed by Treasury. The amounts are punitive in nature. They cut against standard business practices, and they quite probably result in a collection of more than 100 percent of the basis of the cost.

The point to be made is that to avoid the harshest penalties, the company will have to keep copious records of the same type and extent as under section 179 of the Deficit Reduction Act, which was enacted for the depreciation benefits. Accordingly, NAM supports amendments which make the now pending contemporaneous recordkeeping repeal bills complete and fully effective.

Mr. Chairman, let me thank you for your leadership on this issue and the attention that this subcommittee is paying. I would be very pleased to respond to any questions which you may have.

[Mr. Ragland's prepared statement follows:]

PREPARED STATEMENT OF ROBERT A. RAGLAND, DIRECTOR OF TAXATION, NATIONAL ASSOCIATION OF MANUFACTURERS

NAM is a voluntary business association of over 13,500 companies, large and small, located in every state. Members range in size from the very large to over 9,000 small manufacturing firms, each with an employee base of less than 500. NAM member companies employ 85 percent of all workers in manufacturing and produce over 80 percent of the nation's manufactured goods. NAM is affiliated with an additional 158,000 businesses through its Associations Council and the National Industrial Council.

SUMMARY

In a continuing effort to raise revenues without raising taxes the Congress in the past four years has passed two major tax bills, the most recent of which included a proposal to codify the existing treatment of so called non-statutory fringe benefits - - or so Congress thought. Armed with the Deficit Reduction Act mandate to close up fringe benefit loopholes, the Treasury Department has issued two sets of proposed regulations which go well beyond what was existing law, by establishing a network of unworkable recordkeeping and valuation requirements.

Historically any asset, such as a car, that was used in the active conduct of a trade or business was depreciable to the extent so used; and as a depreciable business asset, the company could claim the 10% investment tax credit. In 1984, Congress changed the rules. Now a car has to be used at least 50 percent of the time in the business or it may not be depreciated under the ACRS rules. Between 50% and 100%, the car may be depreciated and the investment tax credit taken on a pro-rata basis. This change affects company assets that are subject to personal as well as business uses. Congress also directed Treasury to make sure that any personal use of business assets was taxed to the user as non-cash compensation.

In due course, Treasury published proposed regulations implementing these changes. To limit the amount of

investment tax credit and depreciation to actual business usage Treasury has proposed that every mile driven be logged with reference to purpose, person and place. The only vehicles exempted under the October 24, 1984 proposal were forklifts and other equipment not subject to personal use. On January 7, 1985, proposed regulations were published establishing the amount of income an employee is to be credited with for the personal use of the company airplane or car.

And the alarm bells rang. Suddenly companies both large and small were confronted with a monumental recordkeeping requirement. Extensive records were needed to determine the limits on depreciation and investment credit on the one hand, and employee income on the other. Legislation repealing one part - the depreciation and investment credit sections - was promptly introduced by some of the same members who voted for the changes in the first instance. Treasury retreated by postponing scheduled hearings and promising revisions.

Unfortunately, the bills introduced in the House (H.R. 531) and Senate (S. 260) don't go far enough and the Treasury modifications are woefully inadequate. The problem is that extensive records will still be required on each vehicle to determine employee income. In this case a half a loaf is not better than none at all.

The Treasury proposals implementing section 179 of the Deficit Reduction Act exceed the intent of Congress, impose an unreasonable administrative burden, are unnecessarily vague, and are punitive. We also fear that they encourage taxpayer fraud thereby compromising the voluntary compliance system upon which effective tax administration rests.

Congressional intent in enacting section 179 was to codify the existing treatment of so called non-statutory fringe benefits. These are things like the use of a parking lot, the Christmas turkey and other items which in the strictest sense are income under section 61 of the code, but for reasons of administrative convenience were never taxed to the employee.

As more people entered the workforce and as the popularity of fringe benefits grew - both as a labor issue and as a quality of worklife expectation - the amount of income escaping the tax base grew. Driven by unacceptably high Federal deficits, and a need to raise revenue without raising taxes, Congressional leaders decided to close up some areas of alleged tax abuse, and to stop the growth of fringe benefits by codifying the tax free treatment of many traditional non-statutory fringe benefits.

Armed with the new law the Treasury department proceeded to draft regulations which in our judgment go well beyond

what was existing law. Specifically Treasury has directed that:

- Employees keep detailed records of any use (personal or business) of a company car.
- Employers impute income in staggering amounts to employees using business assets for personal purposes.

We doubt that Congress ever intended that taxpayers become file clerks for the Internal Revenue Service, keeping logs showing odometer readings, dates, places, persons and purpose for every mile driven, whether for personal purposes or for business. We also doubt that Congress intended for the IRS to require the imputation of income at levels many times in excess of the cost an employee would have incurred had he flown commercial rather than "hitchhiking" on a corporate plane going his way.

Although many business groups have attempted to negotiate with Treasury in an effort to reduce the administrative/recordkeeping burden, and to find levels of imputed income which are supportable by real world figures, these attempts have failed. While Treasury has announced its intent to issue proposed modifications in some areas, they are woefully inadequate and address only a fraction of the problem. Given Treasury's current posture that there will be no further changes, additional compromise is not possible. We must turn to Congress for legislative relief.

Specifically, NAM urges the Congress to repeal the contemporaneous recordkeeping requirement in section 179 of

the Deficit Reduction Act.

Problems

There are two sets of proposed regulations which for fringe benefit recordkeeping purposes must be read together to understand the magnitude of the problem and the inadequacy of Treasury's response.

On October 24, 1984, Treasury published proposed regulations[1] requiring the maintenance of highly detailed logbooks in order to establish the percentage of personal and business use which in turn establishes the amount of allowable depreciation and investment tax credit.[2]

On January 7, 1985, Treasury published a second set of proposed regulations[3] requiring the maintenance of highly detailed records in order to establish the amount of non-cash compensation to be imputed to an employee for the personal use of a business asset. Conceivably this second set is worse than the first.

Almost immediately the hue and cry went up. Our members advise us that the additional direct costs to keep the records required under IRC section 280 for ACRS and ITC purposes (10/24/84) and under IRC section 132 for income imputation purposes (1/7/85) are staggering.

For example:
One NAM company owns and operates 24,000 "installer's vehicles". These are panel vans containing inventory, tools and company property which are garaged at the request and convenience of

the employer at the employees home. As there is commuting involved, IRS records must be kept. At five minutes per day, the direct cost is $8 million per year. Under recent court decisions, every nickel of this additional cost must be passed on to the consumer.

As pressure mounted, Treasury announced that the proposed regulations under section 280 for ACRS and ITC purposes would be withdrawn and revisions made. Examples of the major problems in this area follow:

For example:

1. A company car may be used for commuting if the company imputes income at $4.00 per day to the employee. Fair enough, but this rule applies only when the car driven home is driven by a "different driver". The result of the "different driver rule" is that an employee must exchange cars every night.

2. The proposed modifications do not relieve the recordkeeping burden on plant vehicles and other assets which never leave the plant site because they arguably are available for personal use. The only excepted property are forklifts and the like.

3. Service vehicles which are garaged at home are subjected to the recordkeeping requirement because there is commuting involved. To keep the pro-capital formation ACRS and ITC cost recovery benefits an employer is required to garage these on his lot which cuts down on productivity and presents a considerable security problem.

4. Under the expected modifications an employee may elect to treat trucks as 80% business and 20% personal. Cars may be treated at 70% business and 30% personal. Recognized experts have testified that these numbers are arbitrary and unduly restrictive.

5. There is considerable ambiguity on the application of these rules to foreign branches.

IMPUTED INCOME

Here Treasury has gone on a witch hunt. In its January 7, 1985 release, Treasury proposed levels of income to be imputed which are unsupportable in the free market, permit more than 100% recovery, are vague, and are punitive.

For purposes of determining the income to be imputed to an employee for deriving a personal benefit from the personal use of corporate property, Treasury has proposed a vague matrix of personal use, mostly business, and business use with different rates for key and non-key employees under the following guidelines in Table 1:

TABLE 1

	Business	Primarily Business	Personal
Key *	none	200% of SIFL	600% of SIFL
Non-Key	none	125% of SIFL	600% of SIFL
Colleague **	125% of SIFL	125% of SIFL	600% of SIFL
Guest	125% of SIFL	125% of SIFL	600% of SIFL
Spouse	125% of SIFL	125% of SIFL	600% of SIFL
Family	125% of SIFL	125% of SIFL	600% of SIFL

SIFL is essentially the equivalent of the highest unrestricted coach fare.

200% SIFL approximates first class fares.

600% SIFL approximates three times first class or six times the highest unrestricted coach airfare.

* The proposed regulations impute income to the employee for each passenger present at his invitation.

** Non-key, Key and Colleagues can travel on the same plane at different rates.

The point to be made is that income imputation at these levels is vague, punitive, cuts against a standard business practice, and is likely to produce income imputation at more than 100% of fair market value.

There is also a concern with security. While Treasury has proposed some relief for persons travelling by corporate jet for security reasons, we are told by Treasury that a very hard line approach will be taken. To have a security exception the person must have 24 hour armed guards, armoured cars, surveillance, and other indicia of continuing and imminent peril.

In the entertainment area, Treasury has stated flatly that, "entertaining an employee or other individual is not a business expense". While we have little quarrel with Treasury's position on entertaining other employees, we do quarrel with this massive intrusion into a standard business practice. The effect is to eliminate a non-abusive and standard business practice; namely the use of assets to conduct business with other individuals - even when that business is associated with a recreational purpose.

In establishing the value of the benefit derived Treasury has introduced a new concept into this area. The proposed regulations call for a fair market value determination based on the availability value to the employee. The cost to the employer is not determinative. This sets up an unworkable administrative burden to the employer who must administer the program, and tends to

overstate income. For example, each employer would be required to determine the fair market value of a car or other asset if the employee had leased it on the open market. If more than one vehicle is involved, then more than one record is needed.

Solutions

NAM supported the enactment of the Deficit Reduction Tax Act. We do not, however, support regulatory actions which go beyond the intent of the law. In our judgment the Treasury department has arrogated unto itself a regulatory structure unsupported by Congressional intent, and which is both arbitrary and capricious.

Absent the modifications proposed below, we urge you and your colleagues to rein in this regulatory excess with sure, swift and decisive action; namely the repeal of the contemporaneous recordkeeping requirements for IRC section 280 purposes.

Further, as none of the bills introduced address the section 132 income imputation problem, we support amendments prohibiting these provisions from being imposed by regulations. This second part must be considered because the records necessary for section 132 purposes are identical in scope and burden to those required for section 280 purposes. The repeal or modification of one without the other is a meaningless exercise.

If Treasury is willing to compromise, the following measures are supported by NAM:

	Problem	Solution
Section 280	Different Driver Rule	Repeal or Special Rule for Key employee with an exception for service vehicles.
	Plant Equipment	An exception for vehicles used predominantly in off road use. A flat exemption for service vehicles.
	Service Vehicles	An exemption using the de minimis fringe benefit exemption found elsewhere in the code.
	80/20 Rule	Change to 95/5.
	70/30 Rule	Change to 85/15.
	Foreign Branches	An Exemption where local law does not impute income and the person is not subject to U.S. taxing authority.
Section 132	Rates Too High Double Recovery Punitive	Limit imputation to cost which would have been incurred had the employee paid out of his pocket.
	Key/Non-Key	Use accepted §§ 415, 416 definitions - Top 50 persons ranked by salary.
	Business Primarily Business Non-Business	Reduced subjectivity by eliminating primarily business test.

Problem	Solution
Security	Abandon hard line approach test.
Entertainment	Abandon "or other individual" language.
Availability Value	Abandon Fair Market Value to employee standard. Adopt a cents per mile approach based on the annual lease value.

Conclusion

The NAM supports the tax free status of non-statutory fringe benefits if they promote sound economic values. Where there is an abuse we support its elimination. But, here Treasury is eliminating a series of perceived abuses which in the aggregate will raise an insignificant amount of revenue, while imposing recording burdens and employer costs many times more costly. This we do not support.

ENDNOTES

[1] 49 Fed. Reg 42743.

[2] Generally, any business asset used 100% of the time in the active conduct of a trade or business may be depreicated fully under the Accelerated Cost Recovery Rules (ACRS) and an additional 10% Investment Tax Credit (ITC) may be taken. Between 100% and 50% business usage the taxpayer may take a pro-rata amount of ACRS and ITC deductions. Below 50% the asset is considered personal property. ACRS and ITC deductions do not apply. A deduction for business mileage is permitted.

[3] 50 Fed. Reg. 747.

Mr. LUKEN. Mr. Ragland, do I understand that you will use the estimate of about $1,000 per vehicle for small business as the costs of these provisions?

Mr. RAGLAND. That is correct, and I had an opportunity, Congressman, before I stepped up here, to review the statement of the National Federation of Independent Business. While not presuming to put words in Mr. Motley's mouth, they also use that number.

Mr. LUKEN. If it costs anywhere near that, assume the staggering costs to business and American consumers, because almost one-third of the automobiles which are licensed, put out on the road today are business and there are 100 million cars out on the road today. So we could be talking about as much as 30 million automobiles used in business, at a cost of $1,000 per automobile. I believe that is about $30 billion of potential cost.

Mr. RAGLAND. Congressman, I am looking forward to the opportunity of assisting this subcommittee in developing some numbers which will carry these numbers out to a full model, so we can tell you exactly what we think the impact is going to be. I don't think your numbers are wrong.

If anything, I think they understate the situation, because there are a great many people in this world, myself included, who depreciate their automobiles to the extent that we use them in our business. Now, I don't go out and repair pilot lights and gas heaters, but I do have to use my car for business purposes and I have in the past depreciated it to the extent it was used in the active conduct of my business. I think that there are a whole lot of people in the

same situation that I personally am in, and these numbers have not been given a full airing yet, because so far as I know, there is no national association of independent people out trying to earn second incomes or second practices of law beyond their job, and so forth and so on.

Mr. LUKEN. And another thing, while the IRS is dallying with regulations, the regulations are in effect.

Mr. RAGLAND. Indeed they are.

Mr. LUKEN. So people, millions, tens of millions of automobile users today are in violation of the law, because they are not keeping these logs. They may be subject to excessive penalties at the end of the year, or they may just be perpetual lawbreakers like those during Prohibition when millions of Americans became lawbreakers simply because we had an unenforceable law, namely, Prohibition, and this one cannot be enforced at that kind of cost.

Mr. RAGLAND. Congressman, that is one point that I make in my written statement, and essentially it is that the entire tax code rests on voluntary compliance, and to the extent that we permit regulations of this nature to compromise the voluntary compliance system, we undermine the integrity of our system of collecting revenue in this country. I think that is particularly unwise.

Mr. LUKEN. I think that sums it up very well. I have no further questions. Is there anything further?

Mr. RAGLAND. Thank you very much.

Mr. LUKEN. I do have one more question. It is my understanding that you were one of those who were at least present in the vicinity of the scene of the crime when these laws were passed. We are not shifting any responsibility to you, but as far as what you observed, do you have any comment as to what was intended as compared to what really came out? I mean, do we have an elephant straining at a gnat here?

Mr. RAGLAND. The analogy I like to use, is that we are killing a fly on a window pane with a baseball bat.

Congressman, essentially there were two exercises going on. The first one was on the part of the Members of the House, senior members of the House Ways and Means Committee, to address at long last a pending problem, and that is the tax treatment of so-called nonstatutory fringe benefits. An entire section was crafted for that and business lobbyists and companies and individuals spent a great many hours working on that, and finally, while the NAM wasn't satisfied completely with the result, what came out was workable, in our view.

The second exercise was one in which Congress wanted to make sure that the fugitive income did not escape the tax base. When it came time for the conference committee to meet, the section with respect to contemporaneous recordkeeping was proposed, and it was accepted. Essentially what it did, what we are trying to get at here, both with the codification of nonstatutory fringe benefits and with the limits on depreciation and ITC denies us, what the Congress, as I understand it, as explained to me they were trying to get out, was a truly abusive situation where somebody would go out and purchase a luxury automobile, take accelerated cost recovery provisions and pass the asset on to his or her spouse so they could

use it for the country club or grocery store or things along this line.

We pointed out at that time that there were precious few situations that merited the type of legislation that was coming down the pike, but we do believe that abuses should be addressed.

We were particularly surprised though to find out that the IRS comes back and addresses it in such a heavyhanded way, turning the burden on to an entire range of American taxpayers to address a few situations which even under the joint committee projection of costs, that was an asterisk item, meaning it was under $500 million a year, a negligible amount.

So we went after a few Mercedes and a few other luxury cars around the country—I don't see that many of them—we went after all of them, and came up with this administrative nightmare.

So I would like to call it killing a fly on a window pane with a baseball bat.

Mr. LUKEN. All right, we thank you very much, Mr. Ragland.

Mr. RAGLAND. Thank you.

Mr. LUKEN. Now we will call on John Motley of the National Federation of Independent Business.

I believe you have a statement?

Mr. MOTLEY. Yes.

Mr. LUKEN. That has been submitted and it will be received into the record of the committee without objection.

Mr. MOTLEY. Thank you.

Mr. LUKEN. You may proceed in any manner that you think will be most helpful, Mr. Motley.

TESTIMONY OF JOHN J. MOTLEY III, DIRECTOR OF FEDERAL LEGISLATION, NATIONAL FEDERATION OF INDEPENDENT BUSINESS, ACCOMPANIED BY ABRAHAM I. SCHNEIER, ISSUE COORDINATOR FOR TAX, TRADE, NFIB

Mr. MOTLEY. With me today, Mr. Chairman, is Abe Schneier of the NFIB staff, and Abe is going to set up a little demonstration that I would like to go through, if the committee will permit, on just what might be entailed for a small business person, later on in my testimony.

Mr. LUKEN. That sounds very interesting.

Mr. MOTLEY. Let me, first of all, thank you for setting up these hearings on behalf of NFIB and it's 500,000 members across the country.

I can think of no issue that has drawn the type of spontaneous response from the small business community of the United States as this one has over just the last couple of months. It is being transmitted by word of mouth. The people who call us, probably hundreds a day, are insensed over what they hear is happening and are pretty much demanding that we—and from my talks with some of my colleagues around town, the other organizations representing small business—do something about it before the regulations go into effect. It is a very serious problem from their perspective.

Mr. LUKEN. I might add, as you are aware, the regs are in effect.

Mr. MOTLEY. The regs are in effect?

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Mr. LUKEN. That is the sad fact, that so many people out there, millions of people, don't realize those regulations are in effect and binding upon them right now, and they are going to be penalized if they don't comply with them. They don't know that.

Mr. MOTLEY. That is very true. Although their accountants are doing a good job of letting them know it, because most of the comments and calls and letters that we have received have been generated by business persons going in and talking to their accountants and planning for next year.

Mr. LUKEN. Their accountants notified them early but when the IRS announced they were relaxing them, then people were lulled into a false sense of security.

Mr. MOTLEY. Just a little story in the beginning. I was with my accountant last night and we happened to plan a basketball team together and I got there——

Mr. LUKEN. I play tennis with mine. That is a problem.

Mr. MOTLEY. That is a problem, especially if they are big, but he is kind of short. He indicated, or the first question out of his mouth was what is going to happen to the auto log regulation? He didn't know which way to advise his clients. It is a very serious problem for practitioners and tax advisers.

Mr. LUKEN. I apologize for interrupting. Go ahead.

Mr. MOTLEY. That is fine, Mr. Chairman.

I think Bob Ragland, just before, indicated that the problem really arose when Treasury and members of the tax writing committees and the staffs of those committees wanted to get at this problem of professional corporations going out and buying luxury automobiles for the various members of the corporation, and we really felt that this had been handled by limiting the amount of investment tax credit that they would be allowed and by stretching out the amount of depreciation that would be allowed on those cars. But IRS apparently was not satisfied with just going after luxury cars, they pretty much had decided they wanted to go after all business people and make them prove that the vehicles that they were using on a day-to-day use in their businesses were being used at least 50 percent of the time for business purpose. So, therefore, to prove the use test they came up with the contemporaneous auto log.

I think, Mr. Chairman, this simply goes, once again, to prove that IRS is the agency that understands small business the least of any agency in town.

It is probably no surprise to you, and I know it is no surprise to most small business people, that well over 65 percent of the total paperwork burden generated with the exception of procurement paperwork, by the Federal Government comes from the IRS. Six out of the top 10 most burdensome forms generated within the Government, according to OMB, come from the IRS. We are not counting the contemporaneous auto log in that. That is a new form, and is already public enemy No. 1 as far as paperwork is concerned.

I might also recall that when Congress passed the Regulatory Flexibility Act and the Paperwork Reduction Act, back in 1980, IRS was the first agency to step forward, joined very quickly by the Department of Defense, indicating they didn't consider themselves to be subject to that act, because they were simply interpreting the

law that Congress had passed. So there is an awful lot of resentment within the small business community to what they consider to be insensitivity on the part of the Internal Revenue Service to their paperwork problems.

In my prepared statement there is an example that was put together based upon the regulations that are in effect right now—a very common example, probably one that you have heard several times here today—about a small plumbing contractor who may have five trucks on the road and a number of stops that they would have to make, and the checking that would have to be done by his employees and the certification and the whole process. Abe estimates—and the figure of $1,000 is used—that it is going to cost a firm, a typical small business like this, roughly $1,000 more a year to comply with these regulations.

If you take a conservative estimate of 3 million firms out there which would be in this similar situation, you are talking somewhere in the neighborhood of $3 billion a year to comply with the IRS regulations for contemporaneous auto logs to collect $150 million in new revenues that was supposedly slipping through the system.

It seems to me to be an awful waste of taxpayer's money, time, and effort, to spend $3 billion to collect $150 million.

But as I also know, IRS issued a press release a couple of weeks ago indicating they would take care of some of these situations where you had employees using the trucks and their vehicles constantly during the day for business purposes and they won't have to keep logs. I think their press release has caused an awful lot of confusion and there is an awful lot of gray area in the amendments IRS has proposed.

What I have got up on the board for now is what we think is a typical situation which may not be covered by these IRS regulations. If I can, let me go over to the board, just for a second, and we have not inscripted this out too much. Let's say you have a small business person, a corporation, who owns a home improvement firm in the District of Columbia, has maybe 15 employees, has 5 trucks on the road, 2 people per truck, and has a number of people back in the office.

This person is a fairly successful business person. He has been in the business for about 15 years, or whatever it may be, and the contractor lives somewhere out here in the Riverdale area, let's say, and the business is down here in southwest Washington, down in this area. The contractor leaves his place of business. He has a suburban vehicle, four wheel drive, with room to store tools and materials but is also used as a family vehicle on weekends. He needs this type of vehicle to get around and to take care of all the situations that he meets.

He gets in the vehicle around 7:30 in the morning and drives to work down in southwest DC. When he gets in the vehicle he has to enter his first log entry of the day. So let's say the date is February 1, and his destination is office, and the business purpose is just to go to work. The mileage in from Riverdale is somewhere in the neighborhood of 15 miles. He pays for his own parking. He is in the office from 8 o'clock until 8:30 in the morning opening mail, checking on his schedule for the day.

He has five crews out there working. They are redoing basements, redoing kitchens, whatever it might be. So he has a project going up on Capitol Hill and he decides that he is going to go up and see how that project is going. So he goes from the office back up to Capitol Hill and he stops and he makes his second entry. The same date, and of course he has to put down the address here—let's say 21 First Street, SE., and the purpose is to check on work in progress, and his mileage for that is 3 to 4 miles. Let's say 3. Again, no tolls or parking.

He gets there about 8:50 and spends about 5 or 10 minutes, and he finds out there is a problem, but back in his office he also has a little storage area and he keeps lumber, electrical fixtures, and there is something back in the supply part of his place that will help get this job done. So he gets back in his Suburban and drives back to the office.

Now he has to make his third entry. He still has the same date, puts dittos down, and puts office—and of course I am kind of abbreviating all this because I don't want to take too much of the committee's time—and to pick up supplies. It is 3 miles again. He gets it, takes him about 10 minutes, he is back in the office about 9:10, and it takes him about 10 or 15 minutes to get it on the truck. He gets back in and goes back again. He drops it off and now he has to make another entry. He is back at 21 First Street to deliver his supplies. His entry is 3 miles again.

Now it is 9:20 in the morning, and he decides that he had better go check on the other job that he has in progress, and he drives back out to let's say Cheverly. He comes around the stadium, goes up and goes out into the Cheverly area and he gets out there about 9:45 in the morning, and he has to make another entry. Here you are at 624 Maple and again to check on work in progress. Out to Cheverly is probably about 10 more miles. He only stayed there a few minutes.

Mr. LUKEN. He is thinking of something. The IRS agent who would examine that kind of record just might say it is not adequate.

Mr. MOTLEY. Might not. I am trying to hurry it.

Mr. LUKEN. I mean that is the problem the taxpayer is going to have, guessing on what is going to be adequate to that IRS agent.

Mr. MOTLEY. Whether you should put the reader from the——

Mr. LUKEN. Then he is going to have to pay it as personal mileage.

Mr. MOTLEY. Definitely.

Mr. LUKEN. At the end of the year.

Mr. MOTLEY. Definitely.

Let's carry this out one more step.

Mr. LUKEN. I think what you are doing is excellent. It demonstrates what the problems are going to be.

Mr. MOTLEY. It definitely does. Let's say he has an estimate now for new business coming in. Somebody asked for an estimate and he is supposed to be over at Takoma Park at 10:15. He has to leave this place, make sure the guys are on the job doing the work, what he is responsible for here, comes back out, goes around to Takoma Park and someplace here and it is 10:15 in the morning and he has

made 6 entries in the log and probably taken somewhere in the neighborhood of 5 to 8 minutes for that.

Now, let's say the rest of his day is similarly busy. He probably has an appointment with his accountant, maybe an appointment with suppliers, whatever it might be. Maybe he has to go check the other three jobs during the day. He has only checked two jobs so far.

So at the end of the day you are talking conservatively 15 minutes spent out of his day filling out the log. You are talking about 1 hour and 15 minutes a week. You are talking about 60 hours a year. You are talking about a week and a half out of that person's work time during that year. Now, you are talking about somebody who even under what Treasury is going to do as far as revising the rules may not be covered. If the rules stay in effect as they are now, each of those five trucks that he has on the road has to go through the same thing. You are talking about a tremendous amount of time wasted and time—the old adage in this country is time is money—especially for American business and especially for small business, when you are not setting the prices in the area, when you are trying to compete with people.

So just as an example of what that person would go through, and amount of lost time, therefore, I would say that the figure that we have come up with, which is conservatively $1,000 a year, multiplied out by a conservative figure, the number of businesses within the small business community that would be affected, gives you again the very conservative estimate of $3 billion in costs to collect $150 million in revenues for Treasury.

Mr. LUKEN. Have you completed your demonstration?

Mr. MOTLEY. Yes, I have.

Mr. LUKEN. But your demonstration doesn't really end there. I know you realize this, but I have one of the more simple logs that have been supplied by one of the accounting firms. But at the end of it—what you haven't showed—you have shown the individual entry, but then there must be periodic accumulation of these entries.

Mr. MOTLEY. Absolutely.

Mr. LUKEN. Until you get to the end of the year. The taxpayer is subject to the penalty if he or she doesn't have all of these entries for business purposes sufficiently in detail. They are going to suffer the penalty of that being personal income.

For example, this one says total miles, business miles, business percent, investment travel, cars able to travel, medical travel, principal user. That is one of the more simple ones. To get to that obviously it is going to take additional time either on the part of the individual or somebody back in the office.

Mr. MOTLEY. You are absolutely correct, Mr. Chairman.

The thing that amazes me is that IRS has not, it appears, I would hope, that IRS has not thought this through. Abe also informs me that for IRS purposes for payment estimated taxes and for payroll taxes, that these have to be totaled quarterly and submitted, and you have to pay your estimated and payroll taxes based upon the figures that you come up with, which adds another burden, which is another way of pulling cash out of operating cash out of small business.

We have been trying to reduce the amount of estimated taxes and estimated payroll taxes or to stretch out the period of time which was paid, for years, because what you have is a Government simply speeding up collections to help its cash-flow and help reduce the size of the deficit. What they are doing is pulling out of the operating small business—and cash-flow is probably the number one problem you will find from most operating small business out there. The Government simply is not helping the situation again.

One other point. In checking back with an awful lot of the members who have called us when the original regulations were published and then when Treasury came out with its press release, checking with them to see if the situations would be covered, the other thing that seems to stick very, very much in their craw, is this $4 that they are being asked to charge their employees if they are going to be commuting with business vehicles back and forth to their homes.

Again, I would point to the contractor, whether it be home improvement contractor or plumbing contractor, let's just say located in southeast or southwest Washington, DC, who has in the case of a plumbing contractor, a 24-hour a day business, so he insists that the employee takes that truck home with him, but in addition to that, for security, has got a big fence—he may have a dog—are you going to leave a truck parked with $5,000 to $10,000 worth of plumbing tools and equipment somewhere in southeast DC overnight? Isn't it a business expense, doesn't it help your business or deductible business expense if you don't do that, and you get continually ripped off and everything stolen down there, isn't that going to go skyrocketing?

So he is taking a legitimate proportion to protect the amount of money that his business has to pay in property insurance and IRS says you now have to charge that employee $4 for taking the truck home because you are providing him commutation back and forth to work.

I think, Mr. Chairman, it is interesting—and again I have to commend you for holding these hearings—that no hearings were held on this in Ways and Means or the Finance Committees. Everybody who was battering down your door to appear here, would certainly have appeared and tried to explain all of these problems that would have come up.

There was also no regulatory flexibility analysis done by IRS again. Certainly they would have, instead of making the mistake they made in publishing those ridiculous first regulations, would have not gone through that process and maybe we could have started someplace else.

I think the thing that tends to bother me the most as I look at this, is that our system of taxation has always been fairly well based upon the idea of voluntary compliance. We don't have enough IRS agents to sit with every taxpayer out there to determine whether they are staying within the letter of the law. We have spot audits to help or to encourage people to voluntarily comply, but the system is based on voluntary compliance and it has worked fairly well.

There are always going to be some people who try to abuse it and try to get around it, but by and large most taxpayers in this coun-

try end up paying what they consider to be far too much taxes, but they end up paying their taxes every year. So I would conclude my statement by repeating that often heard cliche, if it ain't broke, don't fix it. I think the IRS tried to fix something that wasn't broke and has caused the American taxpayer a lot of grief and possibly a lot of their hard earned dollars just to comply with these regulations.

Thank you, Mr. Chairman.

[Mr. Motley's prepared statement follows:]

PREPARED STATEMENT OF JOHN J. MOTLEY III, DIRECTOR OF FEDERAL LEGISLATION, NATIONAL FEDERATION OF INDEPENDENT BUSINESS

My name is John Motley , Director of Federal Legislation for the National Federation of Independent Business (NFIB). On behalf of the more than half million NFIB members I am pleased to be appearing before you today to discuss the subject of IRS regulations on automobile expenses and substantiation.

The Tax Reform Act of 1984 introduced a new concept into our tax laws, i.e. the concept of the luxury automobile. For purposes of the tax code, Congress decided to define, on a cost basis, automobiles which are used for business purposes or compensation. To enforce the limit, Congress had to establish a standard by which it could be determined that the predominant use of the vehicle was for business purposes. Therefore section 280F of the IRC now requires that more than 50 percent of the use of an automobile be for business purposes to allow a business to take advantage of accelerated depreciation and the investment tax credit.

One would have thought that at this point, Congress and the IRS would have been satisfied. IRS was still concerned that the record-keeping standards would allow many taxpayers to claim 50 percent business use based on flimsy evidence and inadequate substantiation. Congress therefore enacted new language in the Internal Revenue Code under Section 274 (d) which requires a taxpayer to justify travel and entertainment expenditures through "adequate contemporaneous records". I should add that no hearings were ever held on this issue.

On October 24, The Department of Treasury and the Internal Revenue Service issued proposed and temporary regulations defining the new law and specifically describing what documentation the taxpayer must be prepared to provide to the IRS to be able to prove business use of a vehicle. The new regulations state that a taxpayer must maintain a log or diary detailing business use of all vehicles, the following information is to be entered into the log at the time of use of the vehicle:

1. The date and the use of the property:
2. The name of the user of the property;
3. The number of miles or the amount of time the property was used; and
4. The purpose of the use.

On face value, the new rules do not appear too complex, but picture the following situation: an employer with five service vehicles, each vehicle making five to ten stops a day with different employees using the vehicles. Each employee must spend time completing his log for each entry. The employer must review each employee's log, weekly, monthly, and annually. "Time is money" is a concept apparently unknown to bureaucrats, yet the time spent reviewing the paperwork explodes into thousands of wasted man hours and millions of wasted dollars. What else are those employees doing except company business? How long could an employer stay in business if his employees took their service vehicles out to the race track or took their families to the local mall? Personal use is at most incidental to business use and nominal in value. It is not worth the time to make the log entry if the employee goes a mile or two out of his way for lunch.

Prior Law

Under the old rules an adequate substantiation of expenses was required. For service vehicles used in an obvious business situation adequate records meant invoices for customers serviced or visited and some record of sales to justify business use to the employer. In the past that was sufficient. Grey areas existed when an employee was allowed to use a business vehicle for personal purposes, but under the old law, some reasonable allocation of income was made to the employee based on an adequate representation of the use of the vehicle.

Impact on Small Business

If enacted what would the impact of these new regulations be on small business? The answer is waste. An employee will waste time completing paperwork when he should be working, an employer will waste hours reviewing the logs, then spend additional dollars to have his tax return preparer verify his deduction. A conservative estimate is that each firm subject to this rule will incur $1,000 in increased annual costs for both lost hours of productivity and accounting fees. At best three million businesses will be subject to the new rules, resulting in three billion dollars of wasted money. This cost to the public will allow the Treasury to collect an additional $150 million of revenue in 1985, according to the revenue estimate of this provision cited in the Joint Committee of Taxation analysis of the 1984 tax bill.

IRS Regulatory Analysis

Under Executive Order 12291 and the Regulatory Flexibility Act, the IRS is required to perform a Regulatory impact analysis of new regulations to determine the regulation's impact and to determine if a disproportionate burden is being placed on small business. Treasury and IRS continually claim exemption themselves from these rules because the regulations are merely interpretations of the law. Yet tax rules almost always have a disproportionate impact on small business. Treasury, however, is not willing to commit any

effort to doing this type of analysis for any of its regulations, violating the spirit, if not the letter, of these requirements.

Other Issues

Under the 1984 tax act, a taxpayer claiming auto expenses is required to certify in writing to his tax return preparer that he is aware of the new substantiation rules and has complied with them. Errors subsequently found upon audit will subject the taxpayer to an automatic negligence penalty. This is an absurd idea which effectively turns every tax return preparer into a government agent. It is also unfair--and unusual--to require an automatic negligence penalty when a long standing business rule is changed. Any misinterpretation of the new regulations would subject a first-time offender to a substantial criminal penalty.

Proposed IRS Amendments to Regulations

Faced with one of the greatest public outcrys ever over a new tax rule, Treasury has agreed to revise the regulations. In a press release two weeks ago, changes were proposed that may be helpful. However, Treasury and IRS are taking an excessive amount of time to revise these rules, especially since the regulations are interpreting a law which is already in effect.

Pending our review of any new regulatory proposal, NFIB supports repeal of section 179 (b) of the 1984 Tax Reform Act. We encourage both tax writing committees in the House and the Senate to hold public hearings and deal with the issue squarely and directly.

In addition, due to the time which should be allowed to review the regulations eventually promulgated, IRS, should not require that the new record keeping rules are effective until 1/1/86.

Congress has, over the last few years, been very concerned with the underground economy. It is issues such as the auto log which drive many individuals towards non-compliance. Reasonable rules will result in reasonable compliance, unreasonable rules will result in non-compliance.

Mr. LUKEN. Ironically we are talking about tax simplification laws, having just enacted this monstrosity.

I take it you are getting quite a bit of mail on the subject, too?

Mr. MOTLEY. We are getting more mail on this—a couple of weeks ago, I said it probably was the most we have heard from our membership since the President's tax cut was passed back in 1981, which they were very excited about. This outdoes it and it is angry, it is mad, it is where were you when this happened? I can remember during the fight over the tax bill that we were all fighting for our lives to prevent them from requiring 90-percent business justification for depression. We felt pretty good when we got 50.

Nobody really took a real hard look at the auto log. There were some other issues. The bill was 3,000 pages long. This is the same piece of legislation that we have the imputed interest problems coming from now and you have all probably heard from your realtors and home builders and from small business people who wish to sell their businesses to their sons or to their son-in-law or whatever it may be, on imputed interest. I am sure we are going to uncover maybe a half dozen more as we go along.

Mr. LUKEN. You mentioned the figure of $3 billion. On what did you base that?

Mr. MOTLEY. 3 million small businesses out there.

Mr. LUKEN. Small businesses?

Mr. MOTLEY. Which would be covered and that is very conservative.

Mr. LUKEN. It would not cover the big corporations with the fleets?

Mr. MOTLEY. No.

Mr. LUKEN. Also subject to the law?

Mr. MOTLEY. No, just the 3 million, you know the difficulty we have in pinning down what the small business community really is. We have 5 million employers and you think about 4.7 of those are small businesses. Five million people with employees and you have 2 or 3 million more who sit out there who are just family operated, they don't have any employees. Then you have part-time businesses. So I think 3 million firms that would be affected by these regulations is an extremely conservative estimate.

Mr. LUKEN. It doesn't include the utility companies?

Mr. MOTLEY. No.

Mr. LUKEN. What is your impression—I think you have alluded to it—to the numbers of people who are yet unaware of their responsibility under the law?

Mr. MOTLEY. Yes, I did.

Mr. LUKEN. I mentioned before you came in that I am convinced there are a lot of Congress persons who are not aware of cars that are leased by the Government for their use and their staffs' use, for example, and for their own deductions that they are taking as being legitimate congressional business, that they are not aware of the fact and they are not keeping those logs today. They are going to have a choice. It puts the whole American public who at the end of the year either is going back and making them up, which would violate the law, or pay personal use for business purposes.

Mr. MOTLEY. It will be interesting to find out how Members react when they find out that they are subject to the law.

Mr. LUKEN. I can't convince them yet.

Mr. MOTLEY. I look forward to that.

In some of the past surveying that we have done, a good 25 percent of NFIB's membership and small business community as a whole do not use accountants or outside help in preparing their taxes. They do it themselves. Another 10 to 15 percent have internal bookkeepers or whatever it might be. Generally the level of professional knowledge in that person is not as high as it would be if you would go out to an accounting firm. Of course, an awful lot of rural accounting businesses don't necessarily have the knowledge and expertise and sophistication that some of our larger metropolitan firms do.

So I say that you have in a sense most of the information and knowledge on this tends to be coming from accounting industry getting in touch with their clients and saying, you had better be aware of this—and also from trade associations—that you have a significant portion of the community—unless they read all of this stuff constantly—is pretty much unaware of what is happening. I would say more than a quarter. Small business people are not notorious joiners either, so a lot of them don't belong to their trade organization and organizations like NFIB or the chamber.

Mr. LUKEN. I can tell you, my staff here just reminded me, I have been mulling this over and preparing it, spending a great deal of time in the last few weeks, and we are still arguing about major points as to who is covered and who isn't covered.

Mr. MOTLEY. We spent 3 hours yesterday afternoon doing the same thing, trying to make sure that the example that we gave up there was as accurate as possible, to make sure we weren't picking somebody who is going to come up and say they aren't covered.

Mr. LUKEN. At the end of the year when IRS decides who that applies to, that is going to be it, then it is going to be simple to them.

Mr. MOTLEY. There is an automatic penalty involved. There is an automatic penalty. It reminds me very much of OSHA. If the inspector walked in the door and they found something, there was no arguing about it, there was a penalty, you had been cited. There was a fine based upon the situation and that didn't go very far with the small business community, and I am afraid this isn't going to go very far either.

One of the things that you continually hear from IRS and from the professional staffs of the tax writing committees is there is concern about the underground economy and how much taxes are slipping away, revenues. Well, to a certain extent you have heard those arguments being made in favor of car logs. My reaction to it is just the opposite. It is going to force noncompliance. Small business people are just going to find ways to either get around or avoid.

The other thing you can do is of course just go out and to come to the end of the day and spend your 15 or 20 minutes and manufacture it. It really doesn't make a lot of sense to force these business people to do this when there are going to be ways to get around it and to cheat if somebody wants to cheat.

Mr. LUKEN. Can't you imagine the IRS coming up at the end of the year and saying, if you only put down check work in progress, as you did, which would be a reasonable thing to do, that that is not sufficient detail and throw all that out?

Mr. MOTLEY. Then go to court and win one case and have everybody subject to it and everybody owing back taxes and penalties on it and all that confusion. I think it is another point and the point has been made to me as we have discussed this, the real problem of the gray areas, but they would comply if they knew what they had to comply with. That is a gray area we don't think is covered by what we have seen so far.

Mr. LUKEN. Anything else?

Mr. MOTLEY. No, Mr. Chairman.

Mr. LUKEN. That has been extremely helpful. I think your demonstration is one that many of us tried to conceptualize but you gave it embodiment and we thank you very much.

Mr. MOTLEY. Thank you again for the opportunity to testify.

Mr. LUKEN. We now have the Small Business Legislative Council: James Goldberg, chairman, Tax Committee; John Rector, director of Government affairs, the National Association of Retail Druggists; Dennis Lavallee, director of Goverment affairs, National Association of Plumbing-Heating-Cooling Contractors; and T. Peter Ruane, president, National Moving and Storage Association.

TESTIMONY OF JAMES GOLDBERG, CHAIRMAN, TAX COMMITTEE, SMALL BUSINESS LEGISLATIVE COUNCIL

Mr. GOLDBERG. Thank you, Mr. Chairman.

My name is James Goldberg. I am a lawyer in private practice here in the District of Columbia. I am here this morning in my capacity as chairman of the Tax Committee of the Small Business

Legislative Council. SBLC, as you know, is a permanent coalition of now nearly 90 trade associations representing more than 4 million small businesses across the country. At our recent 1985 issues conference here in Washington, representatives of our constituent organizations had an opportunity to rank more than 50 specific legislative issues that were of concern to small business.

The problem of IRS contemporaneous recordkeeping rules came up number three on the list, behind only the general subject of tax reform and a belief that the Small Business Administration ought to be preserved. So I think that will tell you the importance of this issue to the Small Business Committee.

I am going to introduce three of our constituent organizations today which will present problems that their members are having with this issue.

Before I do, I would only say one thing, Mr. Chairman. That while you and the committee are to be commended for holding this hearing, I don't think anyone should misunderstand that the problem of automobile recordkeeping is only a problem for small business.

It is a problem for all businesses in the country, and the problems that small businesses are having with the recordkeeping rule, and with some of the individual problems that you have heard and will hear this afternoon, are probably more serious than they are small.

But the recordkeeping rules cut across all sizes, shapes, and types of businesses, from big to small. It is for that reason that it is our belief that the Congress should act quickly to repeal this rule. In other words, to present some of the specific problems that are experienced by the SBLC constituent organizations.

Let me first introduce Sal Farruggia, representing the National Association of Plumbing-Heating-Cooling Contractors.

TESTIMONY OF SAL FARRUGGIA, CHAIRMAN, LEGISLATIVE COMMITTEE, NATIONAL ASSOCIATION OF PLUMBING-HEATING-COOLING CONTRACTORS

Mr. FARRUGGIA. Thank you, Mr. Chairman.

My name is Sal Farruggia. I am chairman of the National Association of Plumbing-Heating-Cooling Contractors legislative committee. I am a contractor. I am a plumbing and heating contractor. I operate two companies in Perrineville, NJ. One is Garnet Plumbing, a 17-year-old company specializing in plumbing contracting.

The other is Energy-Wise Heating, Ventilating, and Cooling, which is a 3-year-old contracting firm that specializes in heating, ventilating, and cooling. I employ half a dozen people. I gross a half million dollars annually. I am small business.

I am here to protest, in the strongest terms, the law and the IRS regulations which tax legitimate business use of company vehicles. While there is some incidental, personal value when used for commuting, the tax laws should not discourage such use which is for the benefit and convenience of the employer.

This is not just an issue of backbreaking recordkeeping. The recordkeeping could be eliminated and it would still be a bad law. This is an issue of increased taxes.

My appearance here today is also on behalf of the Associated Specialty Contractors. ASC is a coalition of eight national associations of specialty contractors. The segments of the construction industry represented by ASC affiliates consists of about 166,000 business establishments with annual sales of approximately $80 billion and with 1.5 million employees. The large majority of these firms are small business enterprises.

Last year, Congress passed the Tax Reform Act of 1984. Among other revisions it significantly changes provisions affecting the ownership and deductibility of business vehicles and equipment. Internal Revenue Service regulations are further increasing the tax and paperwork burden on small business, particularly where so-called personal use occurs.

My own personal analogy. My companies have a half dozen trucks and a company car. Two trucks are taken home by employees. Five other trucks are parked at the shop at night, and here is how the vehicles are used; One employee operates one truck almost completely independent from my office. He takes the vehicle to the job site each day and uses it for access to tools, equipment, and parts. Most of the work in any week is at only a limited number of jobsites, so there is very little traveling between sites.

It is also used for emergency calls outside of regular work hours. In fact, the truck is almost never at the shop. I only see my employee about once a week to give him his paycheck. I have had numerous incidents of vandalism before we started having the employee take the truck home. In addition, the jobsites are some distance from my shop, and I have requested my employee to take the vehicle home with him to provide more secure storage, to have it available for emergency calls, and to avoid wasting employee time to have the truck brought to the shop for storage every night. By IRS standards, as much as 90 percent of the miles would be for so-called personal use, but which I would describe as for the convenience and benefit of the company.

The second truck is primarily driven by one employee. It regularly travels to many jobsites in a day. On occasion, other employees drive it to pick up tools or equipment. This truck is also used for emergency calls outside of regular business hours.

Because it may be at many different sites in a day, I want to avoid having it left at a site that might pose a security risk. Jobsites are not always near the shop. I have requested my employee to take the vehicle home with him to assure more secure storage, to have it readily available for emergency calls, and to avoid wasting employee time to bring the truck to the shop every morning and night. By IRS standards, about 10 percent of the miles would be for so-called personal use, but which I describe as for the convenience and benefit of the company.

Five trucks are stored at the shop. Employees report to the shop and are dispatched on job calls at various work sites. Different employees regularly drive each of them. The only personal use might be an incidental stop for lunch or a cup of coffee.

The company car is used to make sales calls, check on jobs, and other such business purposes. It is primarily driven by myself, and may occasionally be used for an incidental personal use. At night it is returned to the shop and stored there overnight.

The shop is my office and principal place of business. Like many other small businesses, it also happens to be my home. The car is stored there for the convenience and benefit of the company. However, because my home is also at the same location as the shop, will the IRS tell me that returning the car there after a sales call is personal?

Construction contractors maintain a fleet of cars, vans, and trucks to make service calls and to provide an onsite storehouse for tools, parts, and equipment for use at worksites. It is a frequent and usual practice to require employees to take a vehicle home for any one or more of the following reasons: Security; lack of storage space at the shop; availability for emergency calls; and increased productivity.

I will touch on each one of these.

No. 1, security. In some construction, it is difficult to maintain security on the jobsite after work hours. Building materials are stolen and vehicles are broken into or vandalized. When employees take these vehicles home, they park them in driveways and on residential streets in neighborhoods. This is far better security.

If employees stop taking vehicles home, the cost to the contractor for security increases. Either additional security measures must be taken at the jobsite, or some other secured parking facilities in the area must be found.

The first option increases insurance costs, and the second increases storage costs. If the vehicles are returned to the shop each day, there is the additional travel time and cost to and from the jobsite each day. If the employee does not take the vehicle home, but rather drives first to the storage place of the vehicle, the contractor loses the productive time while the employee picks up the vehicle and takes it to the jobsite.

Because contractors maintain a fleet of vehicles, they do not always have the space at their shop or place of business to store them. If all the vehicles are returned to the shop then the contractor faces increased expense, either to buy or rent space for vehicle storage.

One of my colleagues from Tennessee on our legislative committee has 35 trucks. He has parking at his stop for only 10; 25 are going home. If he had to store these 25 trucks at the jobsite he would have significant increases in expenses of storage rental, or whatever.

These are stored in an enclosed area and the gate locked for security. He would have to obtain additional secured space, at an additional expense to the company.

Many of his employees have been requested to take vehicles home because he lacks the space to store them and he wants to provide secure storage. This personal use is for the convenience of the contractor. The vehicles and employees are also on call for emergency service, which can be provided more efficiently when employees take the vehicles home.

The second is emergency service. Contractors also require employees to take their vehicles home to have them more readily available for emergency service calls.

We have heard a lot of testimony today from fire, police, and ambulances about emergency services. It is exactly the same situation

for plumbing, heating, and cooling contractors. You raised the issue yourself in relation to no heat calls in the middle of the night, a water heater leak, damage that could be sustained to a home or to a building. If the response time were a little quicker, damage would never happen.

Mr. LUKEN. Mr. Farruggia, I think we are getting the message pretty well. There are a number of other people. We generally try to keep this to about 5 minutes. You have submitted your testimony.

Without objection it will be received in evidence.

Maybe you could wind up in a moment.

Mr. FARRUGGIA. I could just about wind up in a second, if you don't mind.

Mr. LUKEN. Fine.

Mr. FARRUGGIA. One last statement, Mr. Chairman. Unfair taxation of personal use.

To permit this law to continue is another example of ridiculous Government regulations sapping profit, imposing unnecessary costs, and creating inconvenience for the small businessman. This cost is passed on to the consumer.

If employees continued to take vehicles home, that personal use will be taxable to the employee. Some employees have already indicated they will not take vehicles home under those conditions. Employees who do would be subject to taxation and withholding on the value of the so-called personal use.

The rules require a contemporaneous log to be kept, for a vehicle that goes from job to job, or is used by several different employees during that day. It is extremely burdensome, as you have heard.

In wrapping up, we have some conservative statements that place it up to approximately $1,700 per vehicle per year. When you include the high cost of trade labor for filling out those forms—and there is a big difference in the compliance of trade labor to fill out forms—it is totally ridiculous when they could be on productive time on the job site.

Mr. LUKEN. You had better pass those costs on.

Mr. FARRUGGIA. $25 to $35 an hour.

Mr. LUKEN. The taxpayer is going to pay them?

Mr. FARRUGGIA. You can't absorb those kinds of costs.

Thank you, Mr. Chairman.

Mr. LUKEN. Thank you. You have certainly made some very telling points, and we thank you, Mr. Farruggia.

[Mr. Farruggia's prepared statement and appendix follows:]

PREPARED STATEMENT OF SAL FARRUGGIA, CHAIRMAN, LEGISLATIVE COMMITTEE, NATIONAL ASSOCIATION OF PLUMBING-HEATING-COOLING CONTRACTORS

Mr. Chairman, my name is Sal Farruggia and I am the owner of two small business contracting companies in Perrineville, New Jersey. One is Garnet Plumbing Company which is a 17 year old company specializing in plumbing contracting. The second is Energy-Wise HVAC, a three year old contracting firm that performs heating and air conditioning work. My companies employ a half dozen people and gross half a million dollars annually.

I am here to protest, in the strongest terms, the law and IRS regulations which tax legitimate business use of company vehicles. While there is some incidental, personal value when used for commuting, the tax laws should not discourage such use which is for the benefit and convenience of the employer.

This is not just an issue of backbreaking record keeping. The record keeping could be eliminated and it would still be a bad law. This is an issue of increased taxes.

I am here today as Chairman of the Legislative committee of the National Association of Plumbing-Heating-Cooling Contractors (NAPHCC). Accompanying me is the NAPHCC Executive Director Charles Lavin and Director of Government Affairs Dennis Lavallee. In addition to my role in the NAPHCC, I am also Past President of New Jersey State PHCC.

The National Association of Plumbing-Heating-Cooling Contractors is the oldest national association in the construction industry and the largest in the plumbing-heating-cooling industry. It has approximately 6500 members. Membership comes from every state in the country and is organized through about 300 state and local affiliated associations. This industry employs 400,000 people and has receipts of 21 billion dollars.

My appearance here today is also on behalf of the Associated Specialty Contractors. ASC is a coalition of eight national associations of specialty contractors, listed in the Appendix. The segments of the construction industry represented by ASC affiliates consist of about 166,000 business establishments with annual sales of approximately 80 billion dollars and with 1.5 million employees. The large majority of these firms are small business enterprises.

Last year, Congress passed the Tax Reform Act of 1984. Among other revisions, it significantly changes provisions affecting the ownership and deductibility of business vehicles and equipment. Internal Revenue Service regulations are further increasing the tax and paperwork burden on small business, particularly where so-called "personal" use occurs.

The new rules broadly define "personal" use. Use of a car, van or truck to commute will be "personal" use even if use of the vehicle is for the convenience and benefit of the employer.

My companies have a half dozen trucks and a company car. Two trucks are taken home by employees. The five other trucks and car are parked at the shop at night. Here's how these vehicles are used.

One employee operates one truck almost completely independent from my office. He takes the vehicle to the job site each day and uses it for access to tools, equipment and parts. Most of the work in any week is at only a limited number of job sites, so there is very little traveling between sites. It is also used for emergency calls outside of regular work hours. In fact, the truck is almost never at the shop. I only see my employee about once a week to give him his pay check.

Because it has a lot of tools and equipment, I am concerned with security in the area and want to avoid having the vehicle vandalized. In addition, the job sites are some distance from my shop. I have requested my employee to take the vehicle home with him to provide more secure storage, to have it available for emergency calls and to avoid wasting employee time to have the truck brought to the shop for storage every night. By IRS standards, as much as 90% of the miles would be for so called "personal" use, but which I would describe as for the convenience and benefit of the company.

The second truck is primarily driven by one employee. It regularly travels to many job sites in a day. On occasion, other employees drive it to pick up tools or equipment. This truck is also used for emergency calls outside of regular business hours.

Because it may be at many different sites in a day, I want to avoid having it left at a site that might pose a security risk. Job sites are not always near the shop. I have requested my employee to take the vehicle home with him to assure more secure storage, to have it readily available for emergency calls and to avoid wasting employee time to bring the truck to the shop every morning and night. By IRS standards, about 10% of the miles would be for so-called "personal" use, but which I describe as for the convenience and benefit of the company.

Five trucks are stored at the shop. Employees report to the shop and are dispatched on job calls at various sites. Different employees regularly drive each of them. The only personal use might be an incidental stop for lunch or a cup of coffee.

The company car is used to make sales calls, check on jobs and other such business purposes. It is primarily driven by myself and may occasionally be used for an incidental personal use. At night, it is returned to the shop and stored there overnight.

The shop is my office and principal place of business. Like many other small businesses, it also happens to be at my home. The car is stored there for the convenience and benefit of the company. However, because my home is also at the same location as the shop, will the IRS tell me that returning the car there after a sales call is "personal"?

Construction contractors maintain a fleet of cars, vans, and trucks to make service calls and to provide an onsite storehouse for tools, parts, and equipment for use at the work sites. It is frequent and usual practice to require employees to take a vehicle home for any one or more of the following reasons: a. Security; b. Lack of storage space at the shop; c. Availability for emergency service calls; d. Increased productivity;

I will describe each of these.

SECURITY

In some construction, it is difficult to maintain security on the job site after work hours. Building materials are stolen and vehicles are broken into or vandalized. When employees take these vehicles home, they park them in driveways and on residential streets in neighborhoods. This is far better security.

If employees stop taking vehicles home, the cost to the contractor for security increases. Either additional security measures must be taken at the job site, or some other secured parking facilities in the area must be found.

The first option increases insurance costs and the second increases storage costs. If the vehicles are returned to the shop each day, there is the additional travel time and cost to and from the job site each day. If the employee does not take the vehicle home, but rather drives first to the storage place of the vehicle, the contractor loses the productive time while the employee picks up the vehicle and takes it to the job site.

LACK OF STORAGE SPACE

Because contractors maintain a fleet of vehicles, they do not always have the space at their shop or place of business to store them. If all the vehicles are returned to the shop then the contractor faces increased expense, either to buy or rent space for vehicle storage.

One of my colleagues is from Tennessee on our Legislative Committee and has 35 trucks. He has parking at his shop for only 10. These are stored in an enclosed area and the gate locked for security. He would have to obtain additional secured space, at an additional expense to the company.

Many of his employees have been requested to take vehicles home because he lacks the space to store them and he wants to provide secure storage. This "personal" use is for the convenience of the contractor. The vehicles and employees are also on call for emergency service, which can be provided more efficiently when employees take the vehicles home.

EMERGENCY SERVICE

Contractors also require employees to take their vehicles home to have them more readily available for emergency service calls. If a consumer calls in the middle of the night that the furnace has gone out, an employee can be called and dispatched readily to make the repairs, since tools and equipment are readily available.

Let us track that same emergency service call, if the service truck is left at the shop, such as that of my colleague's. The consumer calls to report "no heat". The contractor telephones an employee to make the emergency service call. The contractor must go to the shop so that he can unlock the yard where vehicles are stored. Meanwhile, the employee must travel to the shop, pick up the vehicle, and then travel to the consumer's home or business to service the "no heat" call. When the furnace is repaired, he returns to the shop to return the vehicle.

Meanwhile, the contractor either waits at the shop for the return of the vehicle or goes home to return later to again secure the service vehicle. Thus, there is significant time, inconvenience, and cost by even more people to service emergencies.

Since emergency calls are usually billed from the time of the first call to the employee to his return home, there is both a significant increase in inconvenience to the contractor and an increased cost to the consumer. There is also the negative public relations which the contractor experiences by a consumer who believes the contractor is taking advantage of the emergency and price gouging.

INCREASED PRODUCTIVITY

Employees are compensated from when they start work. In our industry, productive work which the company gets paid for does not begin at the office or shop. It begins at the work site. Work sites may be miles away and even in communities other than the office.

If all employees report to my place of business at the beginning and end of the day, I am losing productive time. I have to pay the employees for their non productive travel time to and from the job sites. That increases my overhead and cost of doing business.

However, as small businessmen, we've learned to work smarter! The employee goes directly to the job site and begins work there.

However, he needs tools, parts and equipment to work with. Again, we have worked smarter. We've put these items in a vehicle. He can take part of my "place of business" with him. He can start and end the day without ever reporting to my central "place of business", my office and shop. As a result, he can do more productive work in a day which I can bill out. That saves me overhead and even increases income to make my company more competitive. My company has increased productivity when employees begin work at the job site rather than at the shop.

UNFAIR TAXATION OF "PERSONAL" USE

To permit this law to continue is just another example of ridiculous government regulation sapping productivity, imposing unnecessary cost, and creating inconvenience for the small businessman. This cost is passed on to the consumer.

If employees continue to take vehicles home, that "personal" use will be taxable to the employee. Some employees have already indicated that they will not take vehicles home under those conditions. Employees who do would be subject to taxation and withholding on the value of the so called "personal" use.

The rules require a contemporaneous log or diary be kept on each use of the vehicle where any "personal" use is involved. For a vehicle that goes from job site to job site or is used by several different employees during the day, that is an extremely burdensome and time consuming chore. It takes away from the productive time which should be spent on the job. Failure to keep the contemporaneous record presumes that total usage is personal, which increases the employee's tax burden and eliminates the company's legitimate tax benefits.

Thousands of employees are going to come to a distinct shock when they find greater withholding taxes based on the value of compensation of company vehicle use. This was use for the convenience of the contractor. Severe repercussions will be felt in personnel administration and employee and labor relations.

The rules also reduce the tax credits and depreciation which can be taken for vehicles. The investment tax credit and depreciation must be reduced proportional to the percentage which a vehicle is used for "personal" use. The use of each vehicle will vary and each will require separate calculations of the proportions of business and "personal" uses.

To further document the impact on small business, I've attached some material provided by one of the other Associated Specialty Contractors member associations. As a member of the National Electrical Contractors Association, Muska Electric has calculated the financial impact these rules will have on their company, which run from 25% to 89% of income depending on how the company complies.

The tax credits and depreciation schedules were put in place to encourage investment and business growth. Reducing their use reduces the incentive and is counterproductive.

Recently, the Internal Revenue Service announced that it is issuing new rules with standard formula to be used for allocating business and personal uses in lieu of the record keeping. For the construction industry, those are of little value.

While certainly it could relieve contractors and their employees from onerous record keeping, it does not solve the basic problem. The basic problem is that vehicles are used for commuting at the request of and for the convenience of the employer. They are serving legitimate business purposes of the small businessman in his effort to hold down business expense and maintain productivity.

CONCLUSION

The first strike against small business contractors is the backbreaking contemporaneous recordkeeping. This paperwork forces contractors and employees to perform countless non-productive hours to help the IRS collect taxes it doesn't deserve. The cost of recordkeeping should vastly exceed the tax collected.

The IRS has graciously announced that small businesses can avoid the recordkeeping by following standard formula. Thus, a small business has a choice of keeping extensive records or using a formula that may limit the tax incentives the businessman is entitled to. Both are unacceptable.

In fact, the IRS is attempting to get a double whammy tax bonanza tacked onto the backs of small business. Small business loses part of the value of tax credits and

depreciation and small business will have to pay higher wages to compensate for the employee's higher taxes.

Some may call it revenue enhancement. I call it a tax increase . . . on contractors and other small businesses.

In baseball, three strikes and you're out. While the government is trying to promote economic growth through productivity, it should not be reducing productivity through such laws. Businessmen should have the flexibility to run their companies to get maximum productivity. The law and IRS regulations discourage vehicles use for the convenience of the employer even though it is in his effort to get the best productivity.

We appreciate the efforts of those Congressmen, including members of this committee who have cosponsored legislation. We believe that the changes in the law which require record keeping and increased taxation are outrageous and Congress should repeal them immediately.

APPENDIX

MEMBERS OF THE ASSOCIATED SPECIALTY CONTRACTORS

Mason Contractors of America

Mechanical Contractors Association of America

National Association of Plumbing-Heating-Cooling Contractors

National Electrical Contractors Association

National Insulation Contractors Association

National Roofing Contractors Association

Painting and Decorating Contractors of America

Sheet Metal and Air Conditioning Contractors National Association

Muska electric company

Electrical Engineers
• Commercial
• Industrial Wiring

January 29, 1985

N.E.C.A. National
7315 Wisconsin Avenue
Bethesda, Maryland 20814

Attention: Robert L. White

Dear Mr. White:

This letter is in response to your inquiry on the impact of the mileage reporting requirements on Muska Electric Company. Muska Electric is an electrical contractor employing on the average of 110 Union electricians. Our business was built around doing small jobs that average about 100 hours of an electrician's time to complete.

Several years ago, we found it was to the Company's advantage to purchase service vans and stock them with material and tools allowing the electrician to drive to the job, rather than having him call in for the material and tools he needed on the jobsite. At that time, we required the electrician to report to the shop to pick up the van and return it each night. After further review, we noticed it was costing the customer an hour, to an hour and a half every day to have the van come into the shop. We made the decision to have the electrician take the van home and report directly to the jobsite. This system worked out nicely for the Company as we were able to satisfy our customers by giving them more service for the money. We never looked on this as providing much of a fringe benefit to the electrician because the van had large company lettering on the sides and, quite frankly, is somewhat of an eyesore in a residential driveway.

The new interpretation of the revenue code by the Internal Revenue Service has a very drastic effect on the efficiencies which Muska has developed and fine-tuned over the years. Now we are in a position whereby we have three alternatives - all of which cost the Company considerable sums of money.

1. The first alternative is to have the electrician fill out the mileage log and charge him for the personal commuting miles. Our records show the vans cost about 35¢ per mile to operate, while a Company car cost 25¢ per mile. Therefore, we will have to charge the electrician 10¢ per mile more than the white collar worker who has a Company automobile.

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In addition to having to pay a higher mileage charge, the electrician has the potential to have more personal miles as defined by the code than the white collar worker. This is caused by the fact that the white collar worker reports to the shop first thing in the morning which, in most cases, is less than five (5) miles; whereas, the electrician must go where assigned in the jurisdiction which can easily be thirty (30) miles from his home. This has been brought up by the electricians on many occasions, and, to date, one electrician has turned in his van and four others are seriously considering doing the same.

The mileage logs, under this arrangement, would be prepared on Company time and would require time on the part of the office staff to compile the records. We estimate, on a conservative basis, the lost time would total $81,510 per year plus added paper costs of $3,400 a year. (See attachments for detail of costs.)

2. Our second alternative would be to insist the vans be picked up and brought back to the shop each night. Under our Union agreement, electricians would report to the shop at starting time and be back at the shop at quitting time. Once again, assuming the job assigned the electrician can be up to thirty (30) miles from the shop, we estimate the commuting to and from the shop and the jobsite would take about one (1) hour per day. This would cost either the customer in lost service, or Muska Electric in productivity, $302,380. (See attachments for detail of costs.) In this case, the electrician would not be charged for any personal use of the vehicle; however, he would still be burdened with the record keeping requirements.

3. Our third alternative would be to ignore the whole reporting requirement and not deduct any truck expenses or take any investment credit on our vans. This would cost Muska approximately $108,700 per year in additional income taxes. (See attachment for detail of costs.) This would make the electrician happy as it would reduce his record keeping and would allow him to continue as usual.

As you can plainly see, at best, none of these situations are acceptable to Muska Electric as the costs run from 25% to 89% of our average income for the past four (4) years. Now the question arises - what does the Federal Government derive from this? Based on the fact that at best, the electrician will include $4.00 per day as income (i.e., all trucks are used for commuting only) and, it appears, the average electrician is in the marginal tax bracket of 30%, the taxes generated will amount to $14,352. (See attachment for detailed analysis.) This revenue; however, will be more than off set by ~~either~~ loss of income taxes from either Muska Electric or its customers.

Sincerely,

MUSKA ELECTRIC COMPANY

Randolph C. Luhrs
Controller

RCL:ss

MUSKA ELECTRIC COMPANY

Costs of Record Keeping

Electrician time spent recording mileage records (¼) one quarter hour per day for 46 electricians, or 57.5 per week @ 25.00 per hour -	$1,437.50
Office staff time spent collecting mileage records, compiling the totals, and verifying their completeness. 10 hours per week @ $13.00 per hour -	$ 130.00
Weekly Costs of Record Keeping -	$1,567.50
Yearly Costs -	$81,510.00

MUSKA ELECTRIC COMPANY

Bookkeeping Costs for Record Keeping & Accounting

Yearly Costs

- Computer Programming for Payroll charges - 80 hours @ $35.00 per hour	- $2,800.00
- Conversion of Payroll Checks (i.e., old checks which would be destroyed because they cannot record mileage charge)	- $ 400.00
- Cost of forms to be completed by Electricians	- $ 200.00
Total Yearly Cost	- $3,400.00

MUSKA ELECTRIC COMPANY

Cost of Record Keeping & Lost Time Assigning Trucks Kept in Shop

Electrician time spent commuting from the shop to the jobsite and back again, recording mileage logs, one (1) hour per day for 46 electricians, or 345 hours per week @ $25.00 per hour(1)	$ 5,750
Office staff time spent collecting mileage records, compiling totals, and verifying their completeness - 5 hours @ $13.00 per hour	$ 65
Weekly Lost Time and Recording Costs	$ 5,815
Yearly Cost	$302,380

(1) Our typical work territory may range from up to 40 miles from the shop with the average job being at least 20 miles from the shop.

MUSKA ELECTRIC COMPANY

Costs No Deductions Taken By the Company

Van mileage for nine (9) months	482,363
Annualized miles	x 12/9
Annualized Miles for Vans	643,151
Operating and Maintenance Costs	
643,151 miles x 19¢ per mile	$122.200
Depreciation Expense	101,200
Total Expenses Not Deducted	$223,400
Marginal Tax Rate	46%
Additional Taxes to be Paid	$102,764
Investment Tax Credits	
Cost ($506,000 x 6% ÷ 5 years)	$ 6,072
Total Cost to Company	$108,836

MUSKA ELECTRIC COMPANY

Van Record Keeping Effects on Company Profits

Average income for past four (4) years	$339,650

Cost of Alternatives:

	$	% of Income
1.	$ 81,510	24%
2.	$302,380(1)	89%
3.	$108,700	32%

(1) Under this situation, we would obviously raise our selling price.

MUSKA ELECTRIC COMPANY
Van Costs Per Mile

Operating and Maintenance Expense per mile (see detailed listing)	19.0¢
Depreciation Costs per mile (see detailed listing)	15.7¢
Total Cost Per Mile	34.7¢

MUSKA ELECTRIC COMPANY
Depreciation Cost
For the Nine Months Ending December 31, 1984

Assumptions:

- Average Vehicle Fleet	-	46
- Average Vehicle Life	-	5 years
- Average Vehicle Cost	-	$11,000

Yearly Depreciation:

- Cost	-	$11,000
- Vehicles	-	x 46
- Years of Service	-	506,000 ÷ 5
- Yearly Depreciation	-	$101,200

Cost Per Mile:

- Yearly Depreciation	-	$101,200 9/12
- Depreciation for Nine Months	-	$ 75,900

$$\frac{\text{Depreciation - \$75,900}}{\text{Van Miles(1) - 482,363}} = 15.7¢ \text{ per mile cost}$$

(1) This represents total miles driven by service vans only.

MUSKA ELECTRIC COMPANY
Vehicle Maintenance & Operations Expense
For the Nine Months Ending December 31, 1984

Vehicle Parts	$ 19,133
Outside Vehicle Repairs	8,740
Gasoline and Oil	60,758
Insurance & License	8,060
Mechanic Wages	24,000
TOTAL VEHICLE EXPENSE	$118,089

Cost per mile driven:

$\frac{\$118,089}{(1)621,059}$ = 19.0¢ per mile cost

(1) This represents total miles driven by all company vehicles. (This is done because no detailed records are kept which separates company automobiles.)

MUSKA ELECTRIC COMPANY

Additional Taxes Raised By Charging Electricians

46 Electricians @ *$4.00 per day or $20.00 per week -	$ 920 per week
Weeks in Year	x 52
Taxable Income	$47,840
Effective Tax Rate	30%
Tax Revenue Generated	$14,352

*Note that Company policy states vans may be used personally for commuting purposes only.

MUSKA ELECTRIC COMPANY

Service Van Material & Tools Listing

A typical Muska Service Van contains the following list of materials and tools:

- 1500 different items of material which includes, but is not limited to wire, pipe connector, fittings, cable, boxes, fuses, ballasts, locknuts, knockout seals, bushings, washers, nipples, switches, plugs, relays, timers, cover plates, straps, breakers, tape, scotchlocks, clamps, couplings, screws, and nails. All of these items come in several sizes, shapes, makes, and colors and must be stacked on a service truck.

- Standard tools on a truck consist of the following:

4 ft.	ladder
6 ft.	ladder
8 ft.	ladder
24 ft.	ladder
½"	pipe bender
3/4"	pipe bender
1"	pipe bender
1¼"	pipe bender
3/8"	variable speed reversible drill
3/8"	hammer drill
½"	angle hammer drill
100'	fish tape
25'	extension cord
50'	extension cord
100'	extension cord
	amprobe
	first aid kit
	hard hat
	2 pair safety glasses

Mr. LUKEN. Mr. Lavallee.

Mr. LAVALLEE. I am simply here to provide support in terms of the questions that are raised.

Mr. LUKEN. Who is next?

Mr. GOLDBERG. Mr. Chairman, John Rector from the National Association of Retail Druggists.

Mr. LUKEN. All right. Mr. Rector.

TESTIMONY OF JOHN M. RECTOR, DIRECTOR, GOVERNMENT AFFAIRS, NATIONAL ASSOCIATION OF RETAIL DRUGGISTS

Mr. RECTOR. Thank you, Mr. Chairman. We are pleased to be here today to express our strong endorsement for H.R. 531, H.R. 600, and a variety of other bills that are aimed at repealing section 179 of last year's tax bill.

Mr. LUKEN. I think we would all be interested. How does this affect druggists? That is the question.

Mr. RECTOR. As you know, we are a highly regulated profession already. Realizing the nature of the items our members have in their inventories, and in delivery vehicles, including life saving drugs and dangerous drugs, we are not unfamiliar with necessary regulations.

In this instance, however, it is a prototype of regulations that probably would have been prohibited had the Reg. FR and Act applied to the IRS. I think it is a classic example, and we urge, as others did, to take a careful look at amending the Act.

I wanted to comment, as Mr. Motley did, on the nature of comments we have received from retail druggists. I had some difficulty finding what we call civil, reportable comments, but among those were questions such as:

> Are these personally offensive restrictions which pose a threat to privacy part and parcel of an Orwellian agenda?
>
> Do they realize that the paperwork associated with the requirements involves more expense than the value of the writeoff?

These are typical examples.

I want to make one more detail reference to what Mr. Slaughter may have heard in Fauquier County, VA or you, Mr. Chairman, in Hamilton County, OH. This is from Bellevue, NE, where John Johnson, P.D., small business person of the year in 1980 writes:

> This regulation places onerous burdens on small businesses such as mine, the Johnson Pharmacy. My pharmacy delivers prescriptions to anyone who requests delivery. It is primarily, however, a request by the ill, the elderly, and the Medicaid recipient.
>
> I use high school students and others to make deliveries, during the day at least, and, of course, we are providing employment. But when you understand that we make from 10 to 30 stops during a single delivery, you can imagine what a time-consuming operation the logging of this particular activity would mean. How much would I have to increase the charge to stay even?

The very point that you made just moments ago.

In concluding, Mr. Johnson indicated, "Don't let IRS penalize us because they can't do their job and catch the offenders."

It is not just the delivery of prescriptions during the normal course of business. Retail druggists are heavily involved in the area of home health care, health support appliances, and I.V. therapy in

the home and in other health facilities, serving in nursing homes, and serving in Hospices.

But, importantly, among that mix is the necessity of having vehicles readily accessible 24 hours a day to employers and employees. In our case we are talking primarily pharmacists, whether they are owner, manager or employee.

The emergencies in our instance are indeed true emergencies and often life-threatening circumstances where there is the necessity to make middle of the night or early morning delivery of one kind of item or another and perform the appropriate service. Thus we are quite similar to police and fire services.

Mr. LUKEN. And you would run into, I assume, as some of the other witnesses have indicated, a disincentive built into this kind of regulation, to providing those lifesaving, those health-providing services?

Mr. RECTOR. I don't know how many of our pharamacists would admit to that, but I think realistically that is a likely byproduct of these contemporaneous recordkeeping requirements.

Mr. LUKEN. At some point disincentives do add up. We don't find all doctors making house calls these days.

Mr. RECTOR. We still do make house calls. That would distinguish us from physicians. Our members have noted to us that same concern that these regulations would be a disincentive.

Of course, we are for simplifying the Tax Code and making compliance less costly, especially for small business. You know, as a former prosecutor that those who are going to cheat will find their ways. This approach just penalizes those who are complying.

In concluding, we would recommend that in the spirit of mutual concern regarding the need to simplify the Tax Law and procedures, Congress can clearly demonstrate its commitment to such goals by restoring the previous law, which required business to maintain adequate records or other such evidence to prove business use of vehicles.

[Mr. Rector's prepared statement with attachments follows:]

Prepared Statement of John M. Rector, Director, Government Affairs, National Association of Retail Druggists

I am John M. Rector. I serve as the Director of Government Affairs of the National Association of Retail Druggists.

The National Association of Retail Druggists (NARD) represents owners of more than 30,000 independent pharmacies, where over 75,000 pharmacists dispense more than 70 percent of the nation's prescription drugs. Together, they serve 18 million persons daily and provide nearly 90 percent of the Medicaid pharmaceutical services. More than 60 percent of NARD members are currently in the Home Health Care business.

NARD members are primarily family businesses. They have roots in America's communities. The neighborhood independent druggist typifies the reliability, stability, yet adventuresomeness that has made our country great.

We are pleased to appear before the subcommittee to express our strong endorsement of H.R. 531, H.R. 600, and the numerous other bills which would repeal Section 179 (b) and (c) of the Tax Reform Act of 1984 (Public Law 98-369). We would like to express our special appreciation to the subcommittee Chairman and staff for their leadership that they are providing through this important and timely hearing.

The independent community pharmacist of today is simultaneously a health care professional and a small businessperson. NARD and its members vigorously support the American free enterprise system which provides the only meaningful climate under which a small business can economically survive, have the opportunity to succeed through personal efforts, and perform an important and essential service to the community.

Pharmacy is a highly regulated profession. In many instances, for public health protection, such controls are necessary. Much can be done, however, to reduce unnecessary government intervention in our marketplace.

Far too frequently, government at all levels--particularly the agencies and bureaus of the federal government--seem to ignore, either deliberately or inadvertently, or fail to consider adequately, the impact of their plans and programs on business.

The subject of today's hearing could serve as a prototype of excessive and burdensome government intervention. To report to the subcommittee that our members, be they owners, managers, or employees, are outraged by the requirement that tax payers must maintain detailed excessive contemporaneous records for the business and personal use of automobiles and other vehicles in order to qualify for a business tax deduction or credit would be an understatement. They ask:

> Are these personally offensive restrictions, which pose a threat to privacy, part and parcel of an Orwellian agenda?

Do they realize that the paperwork associated with these requirements involves more expense than the value of the tax write-off?

These are among the more civil inquiries that we have received from our members across the country.

In the retail pharmacy business, vehicles are used for various purposes:

- the delivery of prescription drugs and other drug products.
- in providing services to nursing homes and hospices.
- and providing durable medical equipment and health supports and appliances, home respiratory and I.V. therapy.
- pick-up and delivery between pharmacies and between pharmacies and wholesalers.

The hallmark of the independent retail druggist is serving and an essential aspect of such service is 24-hour availability for delivery of prescription drugs or other service which requires a visit to the patient's home or health facility. Thus, it is absolutely necessary that most employers and employees have access to company vehicles at all times.

We believe in paying our fair share of taxes. We also support however, the effort to <u>simplify the tax code and make compliance less costly, especially for small business</u>. In affect, the IRS, in an effort to identify a few individuals who stretched the law, are punishing the overwhelming majority of tax payers who are law abiding. The real criminal will simply falsify entries or construct false books if they are ever required the the IRS to submit business records.

In summary, these onerous anti-business records keeping requirements will, in the long run, enhance a perception of unfairness towards our tax laws, which over time will reduce rather than increase tax compliance. In the spirit of mutual concern regarding the need to simplify tax law and procedures, Congress can clearly demonstrate its commitment to such goals by restoring the previous law which required business to maintain adequate records or other sufficient evidence to prove business use of vehicles.

On behalf of the Officers, Executive Committee and members of NARD, thank you for the opportunity to appear and to participate in the formulation of long overdue effort to simplify tax compliance.

THE NATIONAL ASSOCIATION OF RETAIL DRUGGISTS,
Alexandria, VA, January 11, 1985.

Hon. HAL DAUB,
House of Representatives, Longworth Office Building Washington, DC.

DEAR HAL: This regulation places an enormous burden on small businesses such as mine and is totally unacceptable. Keeping a log of my deliveries in the car is ridiculous.

My Pharmacy delivers prescriptions to anyone who requests delivery; however, it is primarily the ILL, ELDERLY and MEDICAID recipients who I am asked to serve. I use high school students to deliver, which, by the way, gives them a job, but when you understand that we make from ten to thirty stops during a single delivery time you can imagine what a time consuming operation the logging of all this would mean. After all, Delivery from Johnson's is a free service to the Prescription Customer. How much would I have to increase the charge to stay even?

The delivery car sits in front of my store all the time, so that anyone can use it. I use my own car for myself.

It's regulations like this that have to be stopped so that the small business community can continue to employ more people and serve the Poor, Elderly and Helpless. DON'T let the IRS penalize us because they can't do their job and catch the offenders.

Please see that this regulation is rescinded at once.

Yours very truly,

JOHN A. JOHNSON, P.D., *Past President.*

THE NATIONAL ASSOCIATION OF RETAIL DRUGGISTS,
Alexandria, VA, January 25, 1985.

Hon. BUDDY ROEMER,
House of Representatives,
Cannon House Office Building, Washington, DC.

DEAR CONGRESSMAN ROEMER: The purpose of this correspondence is to express our support for your legislation, H.R. 600, which would repeal certain sections of the 1984 Tax Reform Act, which requires unnecessary and excessively burdensome detailed contemporaneous records regarding the business use of vehicles.

The National Association of Retail Druggists represents owners of 30,000 pharmacies where 75,000 pharmacists dispense more than 70% of the nation's prescription drugs.

Once again, our deepest appreciation to you and your colleagues who have supported H.R. 600.

Sincerely,

CHARLES M. WEST,
Executive Vice President.

THE NATIONAL ASSOCIATION OF RETAIL DRUGGISTS,
Alexandria, VA, February 12, 1985.

NARD APPLAUDS CHAIRMAN LUKEN AND REPEAL OF IRS VEHICLE REGULATIONS

"Today we are considering the tax issue which has generated the most interest and controversy since the proposal to impose withholding taxes on interest and dividend income. Moreover it will transform honest business men and women into lawbreakers more than any federal law since prohibition."

With these comments, Congressman Tom Luken, Chairman of the Subcommittee on Antitrust and Restraint of Trade Activities Affecting Small Business, opened the Small Business Committee hearings on the IRS record keeping requirements relating to business use of vehicles.

In a crowded, standing room only, hearing room, the Chairman and numerous other members of the committee heard testimony from large and small business representatives. The message was universal. "To report to the committee that our members, be they owners, employers, or employees, are outraged would be an understatement", said John Rector, Director of Government Affairs to the committee. "They ask: does IRS realize that the paperwork associated with these requirements involves more expense than the value of the tax write off?"

As part of the NARD testimony, letters from pharmacists were presented to the committee including one from past NARD president, John A. Johnson from Bellevue Nebraska. Mr. Johnson characterized the excessive, contemporaneous records for vehicles in order to qualify for business tax deduction for credit as "totally unacceptable". Johnson continued "I use school students for delivery, which by the way gives them a job. But when you understand that we make some 10 to 30 stops during a delivery period, you can imagine what a time consuming operation the logging of all of this would mean. After all, delivery from Johnson's is a free service to the prescription customer. How much would I have to increase the charge to stay even?"

Echoing NARD's testimony, the former NARD president said, "It's regulations like this that have to be stopped so that the small business community can continue to employ more people and to serve the poor, elderly, and helpless. Don't let the IRS penalize us because they can't do their job and catch the offenders.

The NARD testimony reaffirmed earlier endorsement of legislation introduced by Congressman Beryl Anthony, Congressman Buddy Roemer, and numerous other members in which Charles M. West, Executive Vice President of NARD, characterized the contemporaneous reporting as "unnecessary and excessive, burdensome, detailed records keeping."

NARD told the committee that "in the retail pharmacy business, vehicles are used for various purposes including the delivery of prescription drugs and other drug products; in providing services to nursing homes and hospices; in providing durable medical equipment and health supports and appliances, home respiratory and I.V. therapy; and the pick-up and delivery between pharmacies and among pharmacies and wholesalers. The hallmark of the independent retail druggist is service and an essential aspect of such service is 24-hour availability for delivery of prescription drugs or other service which requires a visit to the patient's home or health facility. Thus, it is absolutely necessary that most employers and employees have access to company vehicles at all times."

Rector told the committee that NARD "supports efforts to simplify the tax code and make compliance less costly, especially for small business and the Congress could clearly demonstrate its commitment to the need for simplified tax laws and procedures by restoring the previous law which required business to maintain adequate records or the sufficient evidence to prove business use of vehicles."

[From the Drug Topics, Mar. 8, 1985]

OPERATIONS/MANAGEMENT—INDEPENDENT PHARMACISTS ASSAIL NEW IRS BUSINESS LOGGING RULE

(By Bill Robinson)

Retail pharmacists joined a host of other small-business groups last month opposing new tax regulations requiring detailed "contemporaneous records" on the business use of automobiles and other vehicles.

John Rector, government affairs director for the National Association of Retail Druggists, detailed his independent members' outrage at the rules, which were issued by the Internal Revenue Service in January. In testimony before the House

Small Business Committee, Rector declared the regulations to be a "prototype of excessive and burdensome government intervention."

The rule in question implements a heretofore little-noticed provision in last year's Deficit Reduction Act, which Congress added at the last minute in an effort to curb perceived abuses in employee use of business cars for personal errands. It requires employers and employees to maintain comprehensive logs of each individual business trip in order to be able to claim the trip as a deductible expense.

The firestorm of protest that greeted publication of the rule caused the IRS to issue a hasty press release promising to modify it. However, critics of the measure, including NARD, believe nothing short of total repeal will suffice.

In the retail pharmacy business explained Rector, vehicles are used for various purposes, such as delivery of Rx drugs, home health care, and service to nursing homes and hospices. A "hallmark of the independent retail druggist is 24-hour availability" for delivering Rx orders, he added; "thus it is absolutely necessary that most employers and employees have access to company vehicles at all times."

Representative Thomas Luken (D. Ohio), who chaired the hearing noted that the additional record-keeping burden imposed on pharmacists might curtail "life-saving, healthful" services now provided—a possibility Rector acknowledged. Other witnesses pegged the cost of compliance with the rule at, conservatively, $1,000 per vehicle each year.

Congress can demonstrate its commitment to simplifying the nation's tax laws by repealing the provision, Rector suggested. It could also restore the previous law, which require businesses to maintain adequate records or other sufficient evidence to prove business use of vehicles. Such action by the lawmakers would simply "reestablish the rule of reason," Luken concluded.

Mr. LUKEN. Restore a rule of reason?

Mr. RECTOR. Right.

The rule of unreasonableness has taken over.

Mr. GOLDBERG. Mr. Chairman, our last witness is Dr. T. Peter Ruane who is president of the National Moving & Storage Association.

TESTIMONY OF DR. T. PETER RUANE, PRESIDENT, NATIONAL MOVING & STORAGE ASSOCIATION

Mr. LUKEN. Dr. Ruane.

Mr. RUANE. Thank you, Mr. Chairman.

I also represent the National Institute of Certified Moving Consultants today, which is the sales and marketing people in moving and storage. I do have a statement submitted for the record. I only want to make one point.

In our statement we point out that one of those gray areas several people have addressed today, is in the proposed regulations the IRS is arguing to include commercial vehicles, and as you know, the moving and storage industry has a wide variety of commercial vehicles they use ranging from vans and packing trucks, all the way up to the large tractor trailers.

Can you imagine anyone using a 45-foot tractor trailer for personal use, running it through their neighborhood to pick up groceries or any other personal use like that? Inclusion of those kinds of commercial vehicles is obviously ridiculous, and we argue for the exemption of such inclusion.

Mr. LUKEN. Are you saying that they would be covered now?

Mr. RUANE. It is our understanding that such vehicles would be included, because the industry employs a lot of independent contractors who own the tractors which you hook the trailer to, and they would have to keep such records going back and forth to the moving company and the warehouse, whatever.

Mr. LUKEN. Even if they are used full-time in business?

Mr. RUANE. Yes.

Mr. LUKEN. The cab?

Mr. RUANE. Yes, the cab is the tractor part.

Mr. LUKEN. You interpret those regulations, that since it could conceivably be used by an individual, the cab portion?

Mr. RUANE. Exactly.

Mr. LUKEN. For personal use, that therefore——

Mr. RUANE. They would have to keep such contemporaneous records, yes, sir.

Mr. LUKEN. Very interesting.

Mr. RUANE. So, our entire statement is focused on the objective of obtaining total repeal of the subject regulations.

Mr. LUKEN. Otherwise you would be subject, I am sure—even though we all agree to the absurdity of a cab and tractor—that your large tractor trailer operation, the absurdity of that being covered as a personal use, you are at risk under the present regulations. If you don't keep those detailed regulations you could get socked at the end of the year with a pretty stiff personal use penalty?

Mr. RUANE. That is correct, yes, it is.

Mr. LUKEN. Very stiff personal use penalty.

Would you agree, Mr. Goldberg?

Mr. GOLDBERG. Yes.

Mr. RUANE. We address the penalty clause in our statement. That is all I would like to say at this point, Mr. Chairman.

[Dr. Ruane's prepared statement follows:]

PREPARED STATEMENT OF DR. T. PETER RUANE, PRESIDENT, NATIONAL MOVING AND STORAGE ASSOCIATION

The National Moving and Storage Association is a non-profit trade association organized and existing under the General Not-for-Profit Corporation Act of the State of Virginia. It's offices are located at 124 South Royal Street, Alexandria, VA 22314.

NMSA has been in existence since 1920. It is the oldest national trade association in the household goods moving and storage industry. The Association's membership is comprised of over 1,300 local and international movers, agents and warehousemen located throughout the United States and 63 other countries.

The NICMC is a ten-year old non-profit educational association comprised of over 1,000 sales and marketing personnel and companies in the moving industry. The purpose of the Institute is to improve the quality of service to the consumer by upgrading the professional abilities of sales people through self-study, continuing education, and a non-partisan certification program.

The majority of members in both NMSA and the Institute are small businesses and independent entrepreneurs. Approximately 80 percent of NMSA's members earn $1,500,000 or less per annum. Nearly half of the membership's (about 43%) annual revenues approximate $500,000. It should be noted that most moving companies are family-owned businesses, with less than 20 permanent employees.

In preparing its comments for this hearing, NMSA and NICMC have had the benefit of feedback from recent membership mailings, an Executive Committee meeting and the results of the January, 1985 Small Business Legislative Council's Annual Issues and Policy Conference. Therefore our comments reflect the current feelings of our members in communities across the nation.

Impact of Regulations on Moving Industry

As a service industry relying heavily on motor vehicles, our membership is deeply concerned about the imposition of additional paperwork requirements represented by the proposed Internal Revenue Service (IRS) vehicle recordkeeping rules. This is especially ironic in light of other government efforts and legislation aimed at reducing paperwork burdens on our industry (i.e. Motor Carrier Act of 1980 and Household Goods Transportation Act of 1980).

The proposed (IRS) vehicle recordkeeping rules, even with recent modifications, pose a substantial paperwork burden on our small business members. Further action will be necessary to resolve this problem.

The Tax Reform Act of 1984 created special rules for retaining the tax benefits of company vehicle ownership. The heart of these rules is the requirement that the business or personal use of a company vehicle be comtemporaneously compiled-listing the user, date, place of use, time, distance and purpose of the trip.

The recently announced Treasury Department modifications of the IRS rules are a step in the right direction, in that they will help to reduce the paperwork burden for some portion of our businesses. For example, we support the modification which enables taxpayers to satisfy the contemporaneous record requirement by single entries for periods of uninterrupted business use. This modification will permit a household goods salesperson who is engaged in an overnight sales trip to make a single entry for an entire trip. The modification also simplifies recordkeeping for those who spend most of a normal day using a vehicle, such as the sales people the NICMC represents.

However, other than for sales personnel, these modifications do not appear to reduce the paperwork burden.

Specifically we are concerned with the definition of "other listed property" including "means of transportation," and its applicability to the moving industry.

The moving and storage industry typically utilizes (in addition to passenger automobiles) vans, pickup trucks, packing trucks, straight vans and tractor trailers in the everyday performance of moving service for the public. We urge that these vehicles be exempted from the definition. The imposition of the recordkeeping regulations on these commercial vehicles, is unnecessary, will not produce results intended by the Tax Reform Act and is paperwork burden that will adversely impact the small business segment of our industry.

- SUGGESTED ACTION

Both NMSA and NICMC believe that the recent IRS modifications to the subject rules do not adequately resolve the problem created by the proposals. We believe that the contemporaneous recordkeeping requirements are unnecessary, inefficient and counterproductive. Hence, nothing short of outright repeal will be sufficent to resolve the practical problems created by the rules in the "real world".

In addition, the modifications announced by the IRS would keep intact the automatic penalties for tax preparers and taxpayers provided in section 179(c). Automatic penalties are patently unfair for failure to comply with such complex rules. The law should, at a minimum, provide a grace period before penalties are applied.

In sum, legislation is required to cure the defects of sections 179(b) and (c) of the Tax Reform Act of 1984. The modifications proposed by the IRS simply will not resolve the problem in the minds of our members.

We appreciate your consideration of these views and look forward to your support.

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Mr. LUKEN. Mr. Farruggia, you enclosed something that was very interesting from the Muska Electric Co.—that small business which employs 46 electricians—submitted that the total cost of compliance with this section could be $18,000 a year, is that correct?

Mr. FARRUGGIA. Yes, Mr. Chairman. He has listed three different alternatives.

Mr. LUKEN. I might add, before you answer, before we had this hearing, for those who haven't sat through this hearing, haven't seen the kind of demonstration that we had, haven't heard the detailed presentation, that might seem to be exaggerated, but having listened to it, having witnessed just what all is involved, that doesn't seem exaggerated at all.

Mr. FARRUGGIA. No, not at all. The three different conclusions, the least expensive conclusion, the $18,500, works out to $1,700 per truck, that I alluded to before.

You are talking with people that are getting paid anywhere from $25 to $40 an hour to be performing plumbing, or electrical work, or heating work, or whatever. To have them sitting there and filling a mileage record is just totally ridiculous.

Our productivity would be down the drain with all of this. We fight to get 8 hours of work for 8 hours of pay on the jobsite, and if they—have to keep the records on the trucks and have to come back to the shop, that loses an hour a day minimum, so you can see what this costs.

Mr. LUKEN. This is for vehicles that obviously are ill suited to——

Mr. FARRUGGIA. Right.

Mr. LUKEN. For carousing around.

Mr. FARRUGGIA. They are all equipped with equipment, and special purpose tools.

Mr. LUKEN. There aren't too many parked at the neighborhood saloon?

Mr. FARRUGGIA. No, sir.

Mr. LUKEN. They are, if the question were asked——

Mr. FARRUGGIA. They are $25,000. By the time you buy a van and equip it with the normal equipment and inventory, and it is lettered, and pipe racks and ladder racks and everything else that goes along—it is not the family vehicle, let's put it that way—but that is included in this. There is only one other point that this doesn't address. Some of the other people have mentioned it, the lack of incentive. We pay time-and-a-half or double-time for overtime, or for emergency work, or for Saturday work, or whatever. We have men who do not want to work the overtime. Because they work a full Saturday at the time-and-a-half rate or double rate, they come home with about $20 more net in their pay for a full Saturday. And now they want to put this on us.

Guys tell us: "Hey, keep the truck yourself, who needs it. I am making too much money already. I am going into a higher tax bracket."

Mr. LUKEN. That is the disincentive factor?

Mr. FARRUGGIA. It certainly is.

Mr. LUKEN. That we are coming to. Another thing that legislators—when they pass these laws, Members of Congress, and don't have the hearings, that bring out these infirmities in the regulations, they just don't realize it.

Mr. Lavallee.

Mr. LAVALLEE. I was simply going to add, that in the Muska example, the $18,510, is the least expensive alternative. If, in fact, the employees decided not to take those trucks home, there is a loss of productivity. In fact, by returning trucks to the shop, they have calculated that that would cost $302,000.

Then he has explained another option in there. If you just didn't keep records at all and didn't take the deduction because it was too much hassle, that would be $108,000, so the $18,000 figure that is being used is the most conservative of the three options he has available to him if he wants to comply with the law.

Mr. LUKEN. Right. Well, this has been very graphic. It demonstrates the problem.

Mr. Smoots.

Mr. SMOOTS. I am sorry to interrupt.

My name is Ted Smoots, on behalf of Congressman Hiler, who regrets very much not being here.

Mr. LUKEN. The gentleman is recognized.

Mr. SMOOTS. We have been talking a lot about absurdity, but something Mr. Motley mentioned and Mr. Rector hinted on, and just to clarify for the record, here we have an effort to control the underground economy.

Would you agree with the statement that this is just the type of thing that creates an underground economy?

Mr. RUANE. I would think so. It is an incentive for those who have the wrong motivation to try to get around the rules. I think it is a burden. The burden is an incentive to ignore the rules.

Mr. SMOOTS. So you are driving it deeper underground.

Mr. RUANE. Correct.

Mr. SMOOTS. Thank you.

Mr. LUKEN. I thank the gentleman, and I thank all of you for very excellent, very helpful testimony.

Mr. GOLDBERG. Thank you, Mr. Chairman.

Mr. LUKEN. We now have our eighth panel of the day, and we apologize to those on this panel and the following one, which will be the last. We thank you for your patience and perseverance in sitting with us.

We have William Quinn, chairman of the Government Affairs Council of the American Supply Association, and Nicholas Calio is with you.

We do have your written testimony, and without objection it will be received in the record. You may proceed as you believe will be most helpful.

TESTIMONY OF WILLIAM M. QUINN, CHAIRMAN, GOVERNMENT AFFAIRS COUNCIL, AMERICAN SUPPLY ASSOCIATION

Mr. QUINN. Thank you.

My name is William M. Quinn. I am from Memphis, TN, and I thought that perhaps I might have to bring an interpreter in here. Some of you might not understand my old southern drawl, and then I happened to see a couple of the Members are from down South, so, so much for that.

Mr. LUKEN. We seem to get a few of them on the Small Business Committee. I don't know why that is.

Mr. QUINN. There are a whole lot of us down south.

I am chairman of the American Supply Association, Government Affairs Council, as well as vice president of the American Supply Association. ASA is a national association for wholesale distributors of plumbing-heating-cooling-piping products. Of the 4,000 PHCP wholesalers throughout the country, most are small businessmen, just like myself, whose supply house operations require many, many automobiles and trucks.

It is no wonder that these tax changes have caused probably the biggest outrage that I have ever observed in working within the American Supply Association for some 20-odd years. The response has just been unbelievable, as has your response from all your constituents.

For the sake of time here—I think that hasn't been pointed out hardly at all—and one of the most clearly antismall business features of the new regulations, is the treatment of 5-percent owners and their relatives. In most family operated small businesses, of course, relatives are working within the business.

According to the summary of some of the yet to be issued IRS regulations, the full scale recordkeeping requirement has not been done away with at all for the 5-percent owner. It is real important to note right here that when an ordinary employee uses a vehicle and cannot substantiate that the vehicle is used more than 50 percent for business, the employee must pay the personal income for his personal use of the car but the company still receives the full ACRS and the ITC benefits.

A 5-percent owner, or a relative thereto, faces a different situation. Under, the regulations, a 5-percent owner or his relative is required to establish more than 50 percent actual use of the asset in order to take advantage of the benefits of ACRS and ITC. The 5-percent owner must therefore maintain the needed records to establish more than 50 percent business use or penalize his company.

The 5-percent owner faces this penalty in addition to incurring on additional personal income and taxes. This provision applies to the vast majority of the members of the American Supply Association, who are in a family operated business, and its practical effects can work a serious injustice in businesses like ours.

Many of the chores in a small business are done on a do it yourself basis. If an account needs personal attention, or if you have to go down to the bank, you do it yourself.

Family members are most generally working in all phases of the business. We might even be delivering something.

I noticed something here about a gas company having a leak. I had an instance where they brought me out of church when Sears & Roebuck had a leaking water tower—250,000 gallon water tank was leaking into the basement of Sears & Roebuck and it was about to float away. They got me out of church to come down to get a repair clamp to send out to Sears & Roebuck. Maybe I couldn't have done that, wouldn't want to do that, because I didn't want to use my personal car because I wouldn't get any deduction on that. Now wouldn't Sears have been in a pickle?

So what I am saying is that the 5-percent owners of a business, are probably the most important members of the company, and these people can least afford to spend the time to maintain meticulous records during the busiest and most productive times of the day, yet these new regulations require more recordkeeping from those 5-percent owners and impose the most burdensome penalties if they choose not to do so.

The American Supply Association has absolutely no quarrel with the efforts of both the Congress and the IRS to address abuses in the use of luxury automobiles or place limits on the personal use of automobiles in a trade or business. However, we are to a member, outraged at this web of complicated, confusing, and impractical regulations that no matter how well intended, is a misguided attempt to address these issues.

It is the small businesses that have been most severely impacted by these regulations, even in their most reasoned form. It is the small business owner and his family that will have to stop in his tracks and fill out a form to account for a few miles of travel or in the long run face a penalty to himself and then also to his business.

It is really the small businessman who must institute a complicated and time-consuming accounting system at very substantial and unnecessary costs to the business. It is the small business employee who may ultimately bear the full burden of these changes.

I just wanted to interject here and read to you a letter I received from one of our members:

> We received your memorandum on tax breaks for automobiles today. Last Monday our company's auditor was here with the same irritating news. Just like all the small midwestern businessmen who soul-searched to do what was right and

painted yellow lines all over the small warehouse floors for OSHA several years ago, I will now log in personal usage daily on my auto.

Several years ago my four salesmen and I, on the demand from the same auditor, started personal car use monthly payroll deductions for all the personal use we put on our cars. The United States received its taxes and both the company and the individual paid social security on that amount, all without paperwork to the max.

Now, I don't know for sure who the present administration is after here. The people that ignored personal use in the past will ignore this even more onerous recordkeeping detail now. But once again, they bagged old McDermott in Oshkosh with more paperwork.

It is really almost unbelievable in a year when the watchword in our country has been tax simplification that they face this thing. Likewise, it seems to me it would be a disgrace if such misguided and ill conceived restrictions on our businesses are permitted to remain.

Mr. Chairman, I am very grateful to you for letting an old southern boy talk to you, and I really appreciate it, and so does the American Supply Association.

Mr. LUKEN. An American brother.

Mr. QUINN. Thank you, sir.

[Mr. Quinn's prepared statement follows:]

PREPARED STATEMENT OF WILLIAM M. QUINN, CHAIRMAN, GOVERNMENT AFFAIRS COUNCIL, AMERICAN SUPPLY ASSOCIATION

Mr. Chairman. I am William M. Quinn, President of the General Pipe & Supply Company of Memphis, Tennessee, and Chairman of the American Supply Association's Government Affairs Council. ASA is the national association for wholesaler-distributors of plumbing-heating-cooling-piping products. Of the 4,000 p-h-c-p wholesalers throughout the country, most are like me, small businessmen whose supply-house operations require extensive use of company vehicles. Legislation passed in 1984 and regulations issued in October and January are the reasons for my appearance before you today. The changes in the tax law and their consequent effect on my business has created havoc in our industry. They are impractical. They impede our ability to conduct our business efficiently. They will inspire cheating on the one hand or deprive citizens the advantage of bona fide credits and deductions on the other. It is no wonder that these changes have witnessed the greatest level of outrage that I have ever observed at ASA. The response has been deafening.

RECORD KEEPING

At the very core of the problem is the statutory requirement for "contemporaneous recordkeeping." While many details remain unresolved until the Internal Revenue Service issues its latest changes to the record-keeping rules, the basic statutory requirement remains unchanged: taxpayers are required to substantiate their business and personal use of vehicles with records made "at or near the time" the property is actually used. This in essence requires a log, maintained in the vehicle and annotated after each uninterrupted business use. As a practical matter, I can tell you that this disruption interferes substantially with the activity of

our employees. It requires an absurd attention to detail and interrupts a train of thought or activity that is far more important to our business than the value that is derived from the tax deduction of a few miles. The choices are several: the driver can attempt to reconstruct a log well after the fact and ignore the requirements of the law; the driver can accept additional income and therefore incur additional tax liability by ignoring the log and having the mileage treated as personal usage; or the company can subsidize the driver's additional tax in the interest of productivity. [IRS' proposed change permits some employees to opt for a fixed amount, 70%, as business usage in return for eliminating the recordkeeping requirement. This completely arbitrary provision unwittingly rewards the extensive personal use of automobiles: it requires no records when personal use in fact exceeds 30%, yet requires 100% substantiation when a vehicle is used exclusively for business and a 100% write-off is due. In other words, the more you drive a vehicle for business purposes, the more you are penalized.]

The recordkeeping required of the company can be staggering. A company not taxed on a calendar year basis must maintain records compiled to substantiate its own credits and deductions on a fiscal year basis. It must also maintain vehicle usage records on a calendar year basis for each employee. Where a vehicle has more than one driver in a calendar year, separate accounting must be made for each driver. [Allocation of personal mileage between two drivers on occasions when no record is kept is an even thornier problem.] Withholding for taxes and social security will require

additional accounting steps. And, five percent (5%) owner usage will trigger separate attention with an eye to facing recapture of depreciation and investment tax credits taken in earlier years.

EMPLOYEES

What then will be the practical effect of these recordkeeping requirements? Many businesses will opt, as I have heard some suggest, to simply "bonus out" company vehicles. That is, a company facing this mass of paperwork will give an employee his assigned company vehicle as compensation and close the books on the aggravation once and for all. It will then become the employee's automobile and his deduction to substantiate. Another alternative for a company is to compensate employees for business use of their own vehicles. The result is the same: the burden will pass to the employee and it will fall hardest on those with the greatest business use of their vehicles.

OWNERS

The most clearly anti-small business feature of the new regulations is the treatment of the 5% owner and their relatives who, according to the summary of the yet-to-be issued IRS regulations, are not relieved of the full-scale recordkeeping requirement by the revised IRS regulations. A 5% owner also faces not only additional personal income and taxes, but also economic penalties to his company.

It is most important to note a distinction here. When an ordinary employee uses a vehicle and cannot substantiate that a vehicle is used more then 50% for business, the employee must pay personal income tax for his personal use of the car, but the company still receives its full ACRS and ITC benefits. A 5% owner, or related party, faces a different situation.

Under the regulations, a 5% owner, or related taxpayer, is required to establish more than 50% actual use of the asset in order to take advantage of the benefits of ACRS and ITC. The 5% owner must, therefore, maintain the needed records to establish more than 50% business use or penalize his company. To repeat, the 5% owner faces this penalty in addition to incurring additional personal income and taxes.

This provision applies to numerous people in a family-operated business and its practical effect can work a serious injustice in businesses like ours at ASA. Many of the chores in a small business are done on a do-it-yourself basis: if an account needs personal attention, you go do it yourself. Family members are likely to work in every phase of the business, in many instances requiring transportation in a wide variety of vehicles. Business use of the company vehicles is likely to occur frequently throughout the day.

The 5% owners are probably the most important figures in the business, people who can least afford to spend the time to maintain meticulous records during the busiest and most productive periods of the day. Yet the new regulations require more recordkeeping from them and impose the most burdensome penalties if they choose not to do so.

ASA'S POSITION

The American Supply Association is directly impacted by the statutory and regulatory changes resulting from the 1984 tax law. As we have said to individual members of Congress in our letters, we have no quarrel with the efforts of both Congress and the IRS to address abuses in the use of luxury automobiles or to place limits on the personal use of automobiles used in a trade or business. We are - to a member - however, outraged at the web of complicated, confusing and impractical regulations that, no matter how well-intentioned, misguidedly attempt to address these issues. That solution is off-the-mark. Our businesses require extensive use of vehicles and we, more than many others, face a far greater burden than Congress could reasonably have contemplated when it required "contemporaneous records". While our businesses are small businesses, we nonetheless maintain a substantial fleet of automobiles - as many as 30 vehicles not being uncommon.

The solution cannot be found by regulations that either solve only part of the problem or ignore the precise words of the statute. The solution must reach behind the regulations to the statute and repeal the offending language.

The Small Business Committee has a special interest and obligation to lead this effort - even if legislative jurisdiction lies elsewhere in the House. It is small business that is most severely impacted by these regulations, even in their most recent form. It is the small business owner and his

family that will have to stop in his tracks and fill out a form to account for a few miles of travel - or in the long run face penalties to himself and the business. It is the small businessman who must institute a complicated and time-consuming accounting system at substantial and unnecessary cost to his business. It is the small business employee who may ultimately bear the full burden of these changes. We urge the Committee to press for repeal in our interests and the interests of the constituency you are pledged to serve.

It is extraordinary, in a year when the watchwords in the Nation and on Capitol Hill are "tax simplification," that we should even face such a circumstance. Similarly, it will be a disgrace if such misguided and ill-conceived restrictions on our businesses are permitted to remain.

ASA is grateful to you, Mr. Chairman, for seizing the initiative and moving forward so forcefully. We strongly support you in this effort and are prepared to assist in every way possible.

Mr. LUKEN. Mr. Calio.

TESTIMONY OF NICHOLAS E. CALIO, VICE PRESIDENT OF GOVERNMENT RELATIONS, NATIONAL ASSOCIATION OF WHOLESALER-DISTRIBUTORS

Mr. CALIO. Thank you, Mr. Chairman.

My name is Nicholas Calio. I am vice president of government relations for the National Association of Wholesaler-Distributors. On behalf of NAW's members, I would like to thank this committee and all the cosponsors of legislation to repeal these contemporaneous recordkeeping requirements in the House and in the Senate and for taking action on what is a major problem for small businesses across the country.

Mr. Chairman, the National Association of Wholesaler-Distributors is a federation of 117 national trade associations, 50 State and regional trade associations, and some 7,700 individual firm members. All told, we represent about 45,000 companies, with 150,000 places of business across the country. These recordkeeping requirements are a major problem for them.

I would like to note in passing that the American Supply Association, with whom we share this panel, is one of our members and we are proud to have them as a member.

NAW's member companies need cars to carry on their business. They need light trucks and vans to carry on their business. The IRS regulations have a direct and substantial impact day-to-day in everything they do. We have had an overwhelming grassroots re-

sponse to these regulations. Starting about last October, we received hundreds of calls and hundreds of letters from our members trying to figure out what was going on, how they could comply, how they could deal on a practical, day-to-day basis with the problems created by these regulations.

On about January 21, we sent out what we call an Action Gram to our members asking them to write Members of Congress. Our member response has been overwhelming. The stack of letters in front of you right here represents what came in in just 4 days this week. Just 4 days. We have a similar stack back at the office.

What is in these letters indicates that the Band-Aid approach the IRS is proposing in modifying its regulation is not going to work. Nothing short of repeal of the recordkeeping requirements, and we believe the penalty requirement, will suffice to quell the public opposition to regulations that are counterproductive, overreaching, and unnecessarily burdensome. They are going to cost more money to enforce and to comply with than they are supposed to raise for the Treasury.

In terms of cost/benefit, which 2 or 3 years ago was a big watchword in Congress and around this town, that doesn't make much sense to the National Association of Wholesaler-Distributors. We have a major problem that you all have taken the lead in recognizing.

I don't want to abuse this committee's time by rehashing some of the problems that have already been talked about. They have been pretty well covered, and they are covered in detail in NAW's written statement. We would like that written statement to be part of the record and we would commend the problems that we raise to the committee's attention.

We would also commend to the committee's attention excerpts of the letters that we quote liberally throughout our written statement from NAW members around the country. We believe that those statements from the people who have to comply with this law on a day-to-day basis are a far better barometer of the problems it causes than the IRS statements that it won't take much to comply with the contemporaneous recordkeeping requirements.

In conversation with the Treasury Department, we have been told that they have massive evidence of noncompliance. We don't deny that there has been noncompliance under prior law. The problem is that the IRS has thrown out the baby with the bath water and they are taking in—roping in—all the people who have been complying and been complying adequately under current auditing standards. If the IRS has such evidence, we encourage them to come forward with it and at least make it a fair fight. These regulations need to be repealed and that is all we need to say.

However, I would like to read one letter that I picked out of the stack that just came in from one of our constituents in Cincinnati:

DEAR MR. LUKEN. As a small businessman from Ohio, I am writing to let you know my feelings on the recent tax law concerning company automobiles. It appears that no matter how hard business attempts to make productivity gains, some bureau of the Government attempts to neutralize the gain by enacting some ridiculous piece of legislation.

Our company automobiles are used as business tools to allow our salesmen to perform their jobs. The recordkeeping burden that has been applied is absolutely absurd and accomplished nothing more than creating mounds of detail at the ex-

pense of keeping my sales people engaged in their profession of selling, as opposed to recordkeeping.

Congressman Luken, he then asks you to use your influence—which you are obviously doing—to remove the ridiculous requirements.

I would like to make one point about the safe harbors that IRS is touting as a solution to the problem. While they don't require any recordkeeping, there are many sales people who don't use that car intermittently during the day and who use it more than 70 percent of the time for business. There is no reason that they should be denied deductions or credits to which they are entitled because they are not in that car fulltime.

With that, Mr. Roemer and Mr. Chairman, thank you very much.

[Mr. Calio's prepared statement follows:]

PREPARED STATEMENT OF NICHOLAS E. CALIO, VICE PRESIDENT OF GOVERNMENT RELATIONS, NATIONAL ASSOCIATION OF WHOLESALER-DISTRIBUTORS

I. INTRODUCTION

My name is Nicholas E. Calio. I am Vice President of Government Relations for the National Association of Wholesaler-Distributors. On behalf of NAW, I want to express our appreciation to the Small Business Committee for holding these timely hearings on an issue of major concern to businesses across the country and for providing NAW the opportunity to appear here today to offer our views on the tax recordkeeping requirements promulgated by the Internal Revenue Service for business use of an automobile.

At the same time, NAW and its members would like to publicly thank the members of this Committee and all of the other members of Congres who have recognized the problems created by IRS' recordkeeping requirements and co-sponsored legislation to repeal those requirements.

II. NAW AND ITS INTEREST IN THE REGULATIONS

The National Association of Wholesaler-Distributors is a federation of 117 national and 50 state and regional trade associations as well as over 7,700 individual wholesale-distribution companies. All told, NAW's membership includes some 45,000 companies and 150,000 places of business across the country.

NAW's membership is dominated by small businesses and is responsible for over 60 percent of the $1.4 trillion of merchandise which flows through wholesale channels annually. NAW members also employ a comparable percentage, or 3 million, of the 5 million Americans who work in wholesale trade.

According to the most recent figures available from the Internal Revenue Service, corporate wholesale distribution firms had pre-tax profits of $18.6 billion and paid $7.3 billion in taxes. Furthermore, the annual study of effective corporate tax rates by the Joint Committee on Taxation has consistently shown that the industry pays an effective tax rate of approximately 36 percent.

NAW member companies employ executive, management, sales, and service personnel who require and use company cars to carry on their business. In addition, many of the member companies have need for and make use of light trucks and vans. In short, given the size and the nature of their businesses, the new regulations

and the paperwork nightmare they create have a direct and substantial impact on the way NAW members conduct their business.

III. RESPONSE OF NAW MEMBERS TO THE RECORDKEEPING REQUIREMENTS

The grassroots response of NAW's members to these regulations has been overwhelming. We have received hundreds of phone calls and letters about the new rules in the past few months.

In addition, as a result of an NAW ACTION GRAM in which we suggested that our members write their legislators, and provide us copies of their correspondence, we have received copies of over 3,000 letters from our members to members of Congress in the last week alone. Excerpts from these letters are quoted liberally throughout this statement since they provide an accurate guage of the public's attitude toward the new IRS regulations.

An objective reading of that attitude indicates that this issue is not going to disappear unless Congress acts to repeal the contemporaneous recordkeeping requirements for business use of an automobile. Such legislative action is both appropriate and necessary . . . appropriate because the cost and burdens imposed by the new law dictate repeal and necessary because it appears that the IRS fails to recognize the magnitude of the problems created by its regulatory action.

IV. PROBLEMS WITH THE CONTEMPORANEOUS RECORDKEEPING REQUIREMENTS

It is inevitable that bad law will produce bad implementing regulations and to be fair, Congress left the IRS holding the proverbial "bag" in this case. Still, even accounting for the over-broad and ill-considered nature of section 179 of the Tax Reform Act of 1984, the proposed regulations, even as the IRS proposes to modify them, are at once needlessly far-reaching, complex, and vague.

The "adequate contemporaneous" recordkeeping requirements are unreasonable, overly-burdensome, and counter-productive and raise a host of practical impediments to compliance for affected taxpayers which bespeak a failure by IRS to comprehend the realities of everyday business activity. As one member of NAW whose company uses some 200 regular and 50 "flex" or emergency vehicles in any given year, wrote:

> "As we've read, thought about and tried to understand the implementation of the IRS regulations, we have been frankly stunned and frustrated to determine how our company, or for that matter, most any company can realistically comply. The information provided to us honestly leaves us with more questions than it does answers. It is very apparent to us that those writing the implementing instructions do not totally comprehend the confusion and unrealistic aspects of attempting to comply."

That abuses existed under prior law is beyond questions. Nonetheless, the vast majority of those taxpayers affected by the new regulations do not drive "luxury automobiles" and have been

accounting for the use of their company cars in a detailed and satisfactory manner under current auditing standards.

The new and additional recordkeeping requirements now imposed for the use of a company-owned or leased vehicle are simply unnecessary and harsh for the majority of taxpayers and will have a negative impact on their business performance and personal productivity. Small businesses like those that comprise the NAW membership simply cannot afford these additional government-imposed paperwork regulations if they are to maintain a competitive position in the marketplace.

While IRS and Treasury Department officials may maintain that the contemporaneous recordkeeping requirement does not create too severe a burden on business, NAW believes that the opinions of those who have to live with these regulations daily provides a better barometer of their impact. In this regard, a sampling of the comments of NAW members to their legislators about the recordkeeping regulations is instructive for the points they make and the problems they underscore . . . practical problems such as loss of productive time, vehicle use by more than one employee, and vehicle and employee transfers which merit careful examination by this Committee.

A Rhode Island member states that:

> "I feel very strongly that this onerous and ill-conceived legislation will have a dramatically deleterious affect on

> our business, and furthermore, that it achieves very little toward eliminating the abuses intended. It is clearly a case of swatting a fly with a sledgehammer, except in this case I think they have even missed the fly!
>
> "The recordkeeping burden this new law imposes on our business is unjustifyable, incredibly harsh, and so severely hinders productivity as to make compliance unattainable."

A member from Pennsylvania voices similar sentiments:

> "As a certified, terrorized, bloodied, U.S. Taxpayer (paying 37% Federal Taxes on income), I am finally writing my first Congressional letter.
>
> "What has finally gotten to me was the latest 'luxury and personal vehicle use provisions' of the 1984 Tax Reform Act. The provision on 'personal use' requires that I make a detailed entry in a Log - each time I use my company automobile. Can you imagine 'groping' for the Log and a pencil, entering date, number of miles, and finally the purpose of the trip - maybe doing this six or eight times per day . . . my loss of valuable time starts to add up."

Another member from Illinois states that . . .

> "If you drive a company car and keep a record book in the glove compartment, it is almost impossible to write down every single trip and its purpose and every single expense. There are so many things that can interfere with the keeping of proper records. If you miss several entries then your records are not accurate.
>
> "There is also the situation when another company employee drives the car assigned to you and does not record the entries. There is also a situation where you drive another company car and someone has taken the record book out of the car."

while a member from Nebraska raises similar practical problems:

> " . . . we would ask those who concocted the regulations how we're supposed to deal with circumstances regarding the frequent transferring of vehicles between individuals and between branch locations. Is the log supposed to go with

the vehicle or with the individual? It would seem to us that by implication, there really have to be two logs kept.

"One log must stay with each vehicle and one log must be kept by each individual who's assigned any sort of company vehicle for any period of time during a year. In like manner, how are we supposed to deal with switching of personnel between vehicles or how about moving a sales person from Omaha to some point during the year to Minnesota? Not only does this complicate the vehicle issue, but it also severely complicates our ability to do proper tax reporting to the states as well as the Federal Government. The state of Minnesota certainly has different tax laws than the state of Nebraska. I can assure you that we do transfer employees frequently, and we do, of course, transfer vehicles frequently."

Finally, two other NAW members highlight another "fact-of-life" problem caused by the new rules . . . administrative costs which are a particular problem for small business:

"This law, in our opinion, is so impractical that it imposes additional overwhelming recordkeeping which means hiring additional non-production personnel to administer the program. This will in the bare sense rob us of productive work time . . . "

* * *

"The cost we as a company must endure to not only see that the logs are kept, but then do the various other analytical work and tax reporting aspects, is to us another case how misguided government officials saddle the productive economy in the business world with arbitrary, highly unproductive bookkeeping, paperwork and reporting requirements that we frankly view as being punitive."

These problems cannot be rectified by the changes announced, but not yet published by the IRS which would exempt certain taxpayers from the recordkeeping requirements and provide safe harbors for others. The proposed modifications simply carve out narrow

exceptions to the requirements while leaving whole segments of affected taxpayers unjustifiably burdened by the new rules.

For instance, the modifications announced by IRS include a safe harbor for taxpayers who spend most of a normal business day using a vehicle to call on customers or make deliveries under which they may claim 70 percent business and 30 percent personal use of the vehicle without records. However, the IRS still requires contemporaneous records from those sales and service personnel whose business use of the car exceeds 70 percent.

Similarly, executives and management personnel who, like NAW's members, are extremely active in day-to-day operations and use their cars to that end must also keep contemporaneous records. These small businessmen, while willing to account for their personal use of a vehicle through satisfactory records, believe it is unjustifiable to force them to be constantly reaching for a pencil to log each trip, its purpose, and mileage, while trying to run a fast-moving business.

Hence, the National Association of Wholesaler-Distributors submits that nothing short of repeal of the contemporaneous recordkeeping requirements will resolve the practical problems created by the new rules.

V. THE ATTITUDE UNDERLYING THE NEW REGULATIONS

The letters NAW's members have been sending to their legislators also underscore another factor which Congress should take into account as it determines what to do to resolve the problems created by the new law and its implementing regulations. As one NAW member states:

> "Somewhere in Washington exists a 'mindset' which believes businessmen are robbing the Government with 'fringe abuses'. Please take my word for it - 'it just ain't so'. Certainly there are the few who use and abuse. Lets concentrate on these offenders and leave the rest of us to relative peace. Everyone else should not receive harsh punishment for the sins of the few."

* * *

> "When the common people sense they are being 'persecuted' a silent wave of resistance builds and builds. One of the great and unusual aspects of our American Society has been the high degree of voluntary compliance. Provisions, such as these, will surely bring about all the wrong reactions from the people."

Similarly, a Kansas member, after noting that his company (with branches in three states) has just completed "the first month of administering this change," writes that:

> "In my judgement this law is demoralizing in that it strongly implies a lack of trust in all people who have a company car. I do not agree with this, nor do I agree that the demands that this law is making of each of us will bring those who are in violation into compliance. Human beings just aren't perfect and no law is going to change this. In my company there is no serious abuse of the use of a company car.

"In my judgement this law is the most outrageous legislation that I have encountered during my business career. It should be repealed or modified to the point where it serves a useful purpose, and can enjoy a broad base of enforcement. If you permit the hiring of enough people to audit the number of daily logs required to be kept by businesses I question whether it will help to reduce the deficit. The changes which have been made do help but not enough."

VI. CONCLUSION

The contemporaneous recordkeeping requirements for the business use of an automobile imposed by the Tax Reform Act of 1984 were a bad idea in the abstract and have proven an even worse idea in practice as implemented by the IRS regulations. In reality, the costs to business of complying with the new requirements is likely to be greater than the amount of revenue raised by the government. Stated somewhat differently, the cost/benefit of the regulations is indefensible and they should be repealed.

NAW appreciates the Small Business Committee's consideration of these views and again commends the Committee for its efforts to rectify a serious problem.

Mr. LUKEN. Well, your testimony—both of you—has been excellent, and I am going to leave it to Mr. Roemer for any questions except one that I would have, one comment that I don't think has been dealt with much.

You were present and saw Mr. Motley go through the demonstration there that I believe he made about one person who used his car only parttime, an office person, in a part of a morning. Now, we are going to have to multiply that by the billions obviously.

What is going to be the cost to the IRS to effectively monitor, to effectively check any of these records?

Mr. CALIO. Mr. Chairman, the cost, if they intend to enforce the law, is incalculable. We don't think they can do it. It is impossible. That is why they are trying to stick enforcement on the private sector. That is why the whole thing makes no sense.

Mr. LUKEN. What is the purpose of the records if they don't check them?

Mr. CALIO. That is a good question. We have jokingly, and perhaps with some underlying intent, suggested that maybe all of our people should get their records together at the end of the year and send them into the IRS and that all other business people across the country ought to do the same thing. We don't have enough

room in the Archives now, they wouldn't be able to fit them all in there.

Mr. QUINN. What they have done, apparently, is to put the onus on your auditor. You have your auditor sign your return as having checked that these records were contemporaneous records. So they put it on to your auditor.

As a businessman in Memphis, I have to call my lawyer and my auditor every time I turn around. It is getting ridiculous.

Mr. LUKEN. Perhaps. I guess one point I am making—which has been referred to here—is that if the taxpayers are all asked to keep these voluminous, impossibly detailed records, everybody knows that the IRS is never going to check them. We will be going through this exercise and have a worse enforced and less enforcement actually than we had before, because we will have the collar of enforcement without the actual enforcement and everybody will get in the habit of being lawbreakers in effect.

Mr. CALIO. We would agree with that.

Mr. QUINN. My in-house auditor told me yesterday that we would have to have one set of records for each automobile and each pickup truck. We would then have to have one set of records for every person who drives those trucks or cars. Then we would have to have the combination of the two.

Mr. CALIO. I would like to add to that. That has been a point consistently raised by our members in their letters to us and there are, in fact, two statements from our members to that effect in our written statement.

We are finding the people are talking about hiring or having to hire additional personnel to do the analytical work necessary to reconcile the records because they have vehicles that are used by more than one person, they have the vehicles transferred between branches, they have vehicles that go out of commission for a while or that are wrecked, they have sales people who are either fired, die, or leave the company for other reasons. The whole thing is nothing short of a nightmare.

Hence, I think your point is well taken. If individual companies with 100 or 200 vehicles or even 15 vehicles, have to hire people to do the work, what is the IRS going to do? They really can't monitor the recordkeeping. And if there was noncompliance before, one would assume the IRS could have audited people and caught them and did in fact, I am sure, in many cases. Why can't they continue with that process and increase enforcement without adding all these additional costs? If adequate records are not present, they can get their returns.

Mr. LUKEN. The gentleman from Louisiana.

Mr. ROEMER. Briefly, I thank you for your patience.

I want to thank the gentlemen for their testimony and ask of them a couple of quick questions, if I could.

The President, in the State of the Union address this week, spoke of the need in his tax proposals for new agents at the IRS. Do either of you, on behalf of your organization, endorse that plan? It is a thought that without all this contemporaneous business under the current law, if more random checks were done, if more enforcement were done, we could narrow the window of noncompliance.

Do you agree with that? Do you think new agents is an idea that our organization could adopt in preference to these new laws?

Mr. CALIO. Congressman Roemer, theoretically I believe that it might reduce the window of noncompliance. On the other hand, I enjoy my job quite a bit and I would never on behalf of my organization recommend the hiring of more IRS agents.

Mr. ROEMER. You are a wise man, yes, sir.

Mr. QUINN. No, sir, I don't think so.

Mr. ROEMER. Then does that put you—I don't mean to put you in a trap, I know you can wiggle out of it even if I tried—does that mean that if the law is in fact not being complied with, under current standards, and if you object to this attempt to tighten it, you have no suggestions, including the hiring of new agents who bring in 15 times their salary in taxes due, you would just let the law be noncomplied with?

Mr. CALIO. We would not let it be not complied with.

Mr. ROEMER. How would you enforce it if you don't propose new agents?

Mr. CALIO. Well, I said that we wouldn't endorse the hiring of new agents. By the same token, we don't work off the premise that the Treasury Department and the IRS do, which is that most people don't comply with the law.

To the contrary, we believe that most of our members do comply with the law. If the IRS is going to pass regulations that take everybody in, there at least ought to be hearings or further consideration given to ways to target the people who are committing the abuses, rather than just bringing everybody in under some theory that most people don't comply with the law. I know that doesn't entirely answer your question.

Mr. ROEMER. But I think it is the best I am going to get out of you.

What about you, George?

Mr. QUINN. Mr. Roemer, you know in our industry, we have mostly small businessmen. Most of them are pretty successful small businessmen, and they did not get successful in the distribution business by not complying with the law. I think that our members, to a man, want to comply with the law and want to do what is right, and go out of their way to do what is right, and what is required of them by the law.

I don't know the facts and figures as to what one IRS agent can collect. I don't know. They are always down in my place.

Mr. ROEMER. Well, you know, instinctively—I don't have to state my position, I am the author of H.R. 600, which would repeal the provision. I beat the bushes every day, but if noncompliance exists, it is not enough to wink at it, and I just hope two things from you, because you have been awfully good with us—you really have, Nicholas, and I appreciate your organization.

One, I would like some thought that if the IRS does in a defensive measure, purport noncompliance and come up with a dollar figure, that we answer it, perhaps you have given it—you don't believe that figure—but we need to be prepared for that. That is A.

B, I hope we don't let the Ways and Means and the Senate Finance or the IRS finesse this bill and—you know exactly what I mean. They are already beginning to pick over certain component

parts of our coalition. We will exempt you if you have a car of a certain status or if you qualify as a farmer or if this or if that.

It seems to me that we are on solid ground here. The contemporaneous accounting goes too far. It is philosophically important to me. It gives the IRS too much latitude. I think we would help an already strong position by those two thought processes: (a) If noncompliance is registered in a meaningful way, what might we do to narrow the window? (b) Let's not get finessed and let's tell our people not to be siphoned off one group at a time.

But I thank you for your support, it is very meaningful. This battle is a long way from being over.

Now, I am proud of the fact that 44 Senators, as testified here today, have signed an almost repeal. That is what it is now. It is not a real repeal. And more than 100 Members of Congress, hoping toward 200, have signed a complete repeal on our side.

Where are the other 200, 300 members of Congress? We have a lot more work to do. The fight is not over.

But we thank you for your efforts thus far.

Mr. CALIO. Thank you very much.

Mr. LUKEN. They are all violating the law by not keeping the logs.

Mr. ROEMER. You are out of order, Mr. Chairman.

Mr. LUKEN. Thank you very much.

We especially appreciate the next witness, because he is the most patient and the most persevering. There ought to be an award for someone who comes on after a hearing that is as lengthy as this is, and we will challenge you to say something new and original.

TESTIMONY OF JOHN W. ROSS, DIRECTOR OF TAX, FINANCE AND FARM POLICY, NATIONAL CATTLEMEN'S ASSOCIATION, ACCOMPANIED BY ALAN C. SOBBA, TAX POLICY ANALYST, NCA

Mr. Ross. I am John Ross, director of tax, finance and farm policy for the National Cattlemen's Association. I am accompanied by Alan Sobba, who is our taxation policy analyst at the NCA.

Let me say first, that I am here on behalf of the National Cattlemen's Association and eight other agricultural organizations, to express our objections to the proposed contemporaneous regulation and contemporaneous recordkeeping.

It is our view that these rules impose an unreasonable burden on farm and ranch businesses. In our view, the previous regulations requiring adequate records to substantiate a claim were sufficient. As one previous speaker said, if it ain't broke, don't fix it.

Congressman Roemer noted that the IRS has offered revisions, has announced that they are writing revisions to the regulations, including revisions that will exempt many, many agricultural producers, if not all agricultural producers.

I am here to say that we still have problems even after those exemptions. Our concerns really are first, fundamentally with the changes they have announced, that those changes still are inequitable. They still do not address the real problem.

The real problem is the fundamental idea that the IRS or any Government agency should not be in a position to impose this kind of burden on any business.

You know the strong grassroots opposition to the whole idea of contemporaneous recordkeeping and further, to how those regulations have been handled. I would like to note a piece out of our statement which we have submitted for the record. It is an example of management by exception and exemption.

We are reminded of an appropriate statement to the Department of the Treasury. "There you go again, writing another unreasonable regulation and then revising it as legitimate objections are raised." Meanwhile, a tremendous burden and uncertainty is placed upon businessmen like our cattlemen members.

Further, it is ironic that these regulations are proposed. They fly completely in the face of the idea of tax simplification and tax reform which as an organization, we have supported.

Mr. Chairman, I would like to conclude with that. I would like to thank you for the opportunity to represent the views of agricultural producers here.

I would like to further say that we applaud the efforts of many in Congress who recognize the problem that these regulations are creating for us and are taking measures to address them.

Mr. LUKEN. Well, thank you very much, Mr. Ross, and I will first call on the gentleman from Louisiana. I have one question, if he doesn't ask it.

Mr. ROEMER. Thank you, Mr. Chairman.

I will do it quickly, and thank you, Mr. Ross for both your patience and your testimony.

I grew up on a farm in Louisiana, still live there, as you probably know—some cows, some cotton, and some soybeans now. Broke, like most farmers, dead broke.

But I was a little bit taken aback some weeks ago when IRS called publicly for revision number two in the regulations, because I knew what was coming. They were going to try to unload the wagon one bale of hay at a time until they could carry what was left.

The first areas they worked were the obvious punitive portions of the current regulations against the farmer, and I am pleased that the people you represent and you personally, realize that the danger goes beyond what they do to you today. It is what they could do to us tomorrow if we allow the contemporaneous records aspect of the window to remain open.

I thank you for that, and I hope your membership is united in that concern, because although we might have shifted the burden away from the farmer, if we keep contemporaneous recordkeeping alive, it will be back, they will get us someday. I think they are dedicated to that.

And I will close, Mr. Chairman, by saying that I am in the uncomfortable position of referring to the IRS as the enemy. It doesn't have to be that way. It ought not, in the best interest, be that way, as a matter of fact.

You know, America, more than any nation on Earth—this is a fact—has complied with its tax laws voluntarily. More than any nation on Earth. Compare the measure of our voluntary compliance with—I started to name some countries, I don't want to embarrass Italy, France, Germany, England, so I won't name any

countries—but compare us with any nation on Earth and our compliance with the IRS is far superior.

Why? Americans have a sense that it is their duty, they are patriotic, they pay their fair share. They would like to know that their neighbor is paying his or her fair share. They believe in the fairness and the freedom guaranteed and it is these kinds of picky, nitpicking, punitive, overdone regulations that don't only fly in the face of the farmers, they fly in the face of the American dream and the American performance. So I think you are standing for something, and I appreciate it.

Mr. Ross. Thank you.

Mr. ROEMER. Thank you, Mr. Chairman.

Mr. LUKEN. I want to thank you, Mr. Roemer. I certainly second that.

What has been echoed by a number of witnesses is that we have a system here which has been working very well through a couple of centuries, based upon voluntary compliance by the American taxpayer, and that if we set up totally unreasonable, impossible regulations for them to comply with, we are introducing something into our taxpaying system—the impossibility of compliance, making lawbreakers out of our taxpayers unnecessarily. That is not only an unreasonable regulation, but it is going to pull down the system.

The question I had, you alluded to the fact that the regulations may be amended, IRS has said they may amend them, and were specific about farm use. It seems to me that I want to ask you that if the IRS does flesh out what they put in their news release about farm vehicles, with regard to trucks that are used in the business of farming, you must either keep records of personal use—well, that would be keeping all the records, right—or keep no records for 80 percent users. Don't you have quite a few vehicles in your business that are used more than 80 percent?

Mr. Ross. Yes. In fact, the bulk of the vehicles that we use are used more than 80 percent. I can give you a good example of that. We very seldom take our grain truck off the ranch except when we are hauling grain to town, or cattle to town.

One of the questions we have is if we stop and do some personal business while we happen to be there in town—which is 25 miles away—does that mean that the trip is personal business? Do we split it up? The rules are unclear. Of course, we have not seen the revisions to the regulations, but yes, most of the vehicles that we use are used more than 80 percent for business.

In fact, one of the comments that we heard at our National Cattlemen's convention this last week was that actually if they kept the records, if they went to the records on personal use, they would probably find that they had actually been underclaiming business use over the last several years, that our vehicles are used more than what we have been claiming.

Mr. LUKEN. Well, in most cases, you will still be in a quandary as to what is personal use at best?

Mr. Ross. Yes.

Mr. LUKEN. You will still be in the recordkeeping business then?

Mr. Ross. That is right.

Mr. LUKEN. And your statistics, which I don't think anyone challenges, would indicate that the government has been doing quite well in an industry such as yours, where obviously most of your business for such trucks, most of your use, is business I don't think anyone could challenge, that even a city boy like myself would recognize that there would be very limited personal use of such vehicles for people who run them and operate them in the business?

Mr. Ross. Many of the vehicles we use are not particularly well suited to anything but business use.

Mr. LUKEN. That is fairly evident.

Well, is there anything else?

Mr. ROEMER. I want to thank the chairman for the hearing and thank you, Mr. Ross.

[Mr. Ross' prepared statement follows:]

PREPARED STATEMENT OF JOHN W. ROSS, DIRECTOR FOR TAX, FINANCE AND FARM POLICY, NATIONAL CATTLEMEN'S ASSOCIATION

[The National Cattlemen's Association is the national spokesman for all segments of the nation's beef cattle industry—including cattle breeders, producers, and feeders. The NCA represents approximately 230,000 professional cattlemen throughout the country. Membership includes individual members as well as 51 affiliated state cattle associations and 18 affiliated national breed organizations.]

I am pleased to be here to express the objections that agricultural producers have to the requirement of "contemporaneous records' to substantiate business deductions for use of vehicles and other property. The telephone calls and letters we have received express the frustration and anger that cattlemen and other businessmen have toward the regulations. We are tired of the ever-increasing demands placed upon us for more information, more data and certainly more paper.

Our members are opposed to these regulations and the paperwork burden they impose. As we worked on the issue, we found that all agricultural producers share our strong opposition. We combined our efforts with the following groups to send a letter to then-Treasury Secretary Regan expressing our opposition. The organizations involved are:

National Association of Wheat Growers
American Soybean Association
National Corn Growers Association
National Grange
National Milk Producers Federation
American Horse Council
National Pork Producers Council
National Cotton Council
National Cattlemen's Association

In our joint letter, we indicated that revisions might be possible, but that the only real solution is a return to the previous regulations. That must be done legislatively, which is why we are here today: In our view, the previous regulations requiring "adequate records to substantiate the claim" were sufficient. If it ain't broke, why fix it!

We recognize that the Department of the Treasury and the Internal Revenue Service are revising the regulations, as announced in their January 25 press release. We have not seen the revised regulations, but the press release indicates that some relief may be afforded some businesses, including farmers and ranchers.

While we appreciate the gesture, we still have some problems with the revisions as announced, and indeed, with the whole idea of contemporaneous records. The press release indicated that farmers may be able to choose either of two options:

1. Keep no records, and declare a set 80 percent business, 20 percent personal level of use, or,

2. Declare a higher percent business use, and keep records of personal use only.

This approach penalizes the person who uses the vehicle for more than 80 per cent business use. That person must now keep records of use, while the person who uses the vehicle 70 percent for business gets a ten percent gift. These 80/20 and 70/30 splits between business and personal use are arbitrary, capricious and inequitable.

Again, while we appreciate the effort to lessen the impact of the regulations, the rules are still objectionable. There is a strong grassroots opposition, based on princi-

ple, to this onerous and burdensome interference in the conduct of our business. It is an example of management by exemption and exception. We are reminded of an appropriate statement that might be made to the Department of Treasury: "There you go again—writing another unreasonable regulation and then revising it as legitimate objections are raised." Meanwhile, a tremendous burden and uncertainty is placed upon businessmen like our cattlemen members.

Finally, in the year when we hope to see a major move toward simplification of our complex tax system, it is ironic that these regulations are proposed. They fly completely in the face of the idea of tax reform and tax system simplification.

We commend the members of the House of Representatives and the Senate for being responsive to our concern. We applaud the many bills that have been introduced, and we respectfully urge that the Congress act promptly to repeal the "contemporaneous" record-keeping requirement and return to the "adequate records" language of previous years. Thank you again for this opportunity to represent the views of agricultural producers today.

Mr. LUKEN. All right, I don't see any need for any further comment, then. It seems that everyone who has requested and has been invited has appeared, and that the testimony has been excellent. This may be the first hearing of a series or it may not, we will confer on that.

I might add that I received a notice this morning that Ways and Means is going to have a hearing on March 5. Whether they know something we don't know, whether the IRS is going to come out with regulations between now and then, we don't know.

I do know this: That certainly the testimony, the evidence, the exhibits, everything that we have we are certainly going to make available to the Ways and Means and I am sure they will be interested in the small business viewpoint that has been so cogently presented here and so persuasively and comprehensively presented by the excellent witnesses that we have had.

So the subcommittee will stand adjourned, subject to the call of the chair.

[Whereupon, at 1:30 p.m., the subcommittee adjourned, to reconvene subject to call of the Chair.]

APPENDIX

Appendix A.—Prepared Statements From Members of Congress

Prepared Statement of Hon. Jack Brooks, a Representative in Congress From the State of Texas

Mr. Chairman—I am pleased that you have called a hearing to look into the Internal Revenue Service's new regulations requiring the maintenance of "adequate contemporaneous records" on property such as automobiles used for business purposes. The provision of last year's Deficit Reduction Act which required individuals using their vehicles for business purposes to keep detailed records in order to receive business deductions for use of such vehicles received little attention when it was enacted as part of a 750-page bill last June, but as word has spread among our constituents following the issuance of regulations by the Internal Revenue Service to enforce this provision, we have learned of the serious and harmful effects of this provision. Millions of taxpayers are being forced to keep excessively detailed logs of their vehicle use in order to claim deductions that formerly were routine.

Mr. Chairman, I think that the problem here results from a failure to adequately balance two competing interests. On the one hand, clearly all of us are interested in making sure that the tax laws are enforced vigorously and that all of our taxpayers comply with those laws. On the other hand, we must do everything in our power to ensure that those laws are applied in a manner that imposes as small a paperwork burden as possible on our citizens. The contemporaneous records provision and the IRS regulations to implement it go too far. They impose a heavy burden on millions of small businessmen, farmers, and others who use their vehicles for business purposes.

Mr. Chairman, in this case the IRS should go back to the drawing boards. If a serious problem of unjustly claiming business use for vehicles and similar property exists, the IRS should devise a new way of ensuring compliance with the law that doesn't force taxpayers to spend hours of their business day making notes.

It is for this reason that I introduced H.R. 779 on January 30. My bill would accomplish two purposes. First, it repeals the provision of the Deficit Reduction Act that established the "adequate contemporaneous records" requirement, thus restoring the law as it previously existed. In addition, H.R. 779 requires the Secretary of the Treasury to undertake a study to determine just how much of a problem there is in this area and to report back to Congress on alternative methods of enforcement that are consistent with the goal of reducing paperwork requirements on individual taxpayers. After the Congress has this report in hand, we can determine what changes need to be made to assure compliance with the tax laws without imposing the pain of unnecessary additional burdens on our citizens.

Mr. Chairman, as the author of the Paperwork Reduction Act of 1980, I am particularly concerned about this new IRS provision and the harmful effect that it has on our citizens. It runs against the philosophy of that Act to impose this unreasonable requirement on millions of taxpayers.

Once again, Mr. Chairman, I want to congratulate you for focusing attention on this issue. I hope that the Congress will move swiftly to enact legislation to restore the law as it previously existed, thus freeing millions of small business men and women from an unreasonable and wasteful paperwork requirement.

Prepared Statement of Hon. E. Thomas Coleman, a Representative in Congress From the State of Missouri

Mr. Chairman, I appreciate this opportunity to express my strong opposition to the new Internal Revenue Service record keeping requirements. I have heard from

hundreds of constitutents who feel that these ridiculous requirements simply represent another example of government overkill, and quite frankly, I agree with them.

I have received telephone calls and letters from irate farmers, contractors, realtors, salespeople, from practically everyone who utilizes a vehicle in the operation of his or her business each day. To maintain "contemporaneous records"—to keep track of every single mile driven, day in and day out, to log in dates, names, purposes, to "comply" with the new provisions—is simply a waste of their time. Small businesses and farmers are already overburdened with federal paperwork, and these new regulations simply represent more needless record keeping.

Mr. Chairman, we should overturn the legislation on which the IRS has based the new regulations, and I am cosponsoring several measures to repeal these onerous provisions. I appreciate the opportunity to present my comments today, and I hope this hearing will ensure that the new requirements are rescinded as soon as possible.

PREPARED STATEMENT OF HON. GEORGE (BUDDY) DARDEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF GEORGIA

Mr. Chairman, the Ninety-eighth Congress approved the Deficit Reduction Act of 1984 in June of last year. While I am generally in favor of measures to eliminate the deficit and reform our present tax system, I felt many of the provisions in the Deficit Reduction Act were unsound and, therefore, voted against this legislation. Section 179 of the Deficit Reduction Act is one provision in particular which I believe creates unnecessary hardships for the taxpayer.

As you are aware, this section of the Deficit Reduction Act provides for changes in the Internal Revenue Service rules and regulations on the taxation of automobiles used for business purposes. The changes in the tax code as established in the Deficit Reduction Act, require taxpayers to substantiate any tax credit or deduction for business use of listed property with adequate contemporaneous records. In order to comply with this requirement, taxpayers must maintain cumbersome logs or journals with individual entries specifying names, purposes, mileage and times for property used for personal and business purposes.

On January 25, 1985, the Internal Revenue Service announced it will issue temporary and proposed regulations modifying the requirement to keep adequate contemporaneous records for automobiles and certain other vehicles. The Internal Revenue Service contends that these modifications will reduce substantially the recordkeeping burden imposed for certain vehicles used for business purposes. I still believe, however, that the provisions in the Deficit Reduction Act which established the recordkeeping requirement should be repealed.

The simplicity of our tax system is an important aspect to consider when making changes to the tax code. The simplicity can be measured by how well taxpayers understand the tax system and how easily they can comply with its provisions. A finance minister to Louis XIV once wrote, "the art of taxation consists in so plucking the goose as to obtain the largest amount of feathers with the least possible amount of hissing." Mr. Chairman, during the past few weeks I have received hundreds of letters from farmers, electricians, plumbers, salesmen, painters, doctors, and a list of others attempting to comply with these recordkeeping requirements. Regardless of the particular field of work, the complaints I am hearing from my constituents are all the same. These taxpayers are frustrated from daily attempting to maintain meticulous record for each business related trip they make in their automobile. The upkeep of these records requires a great deal of time as well as large amounts of paperwork.

I do not believe taxpayers should be subjected to the overall hassles of adhering to these recordkeeping requirements. Accordingly, I have introduced the Business Tax Records Reduction Act of 1985, H.R. 783, to repeal section 179 of the Deficit Reduction Act. I am concerned that our tax code be sound enough to force strong compliance with regulations for deductions relating to automobiles used for business purposes. I do not, however, believe we should continue to unduly burden the American taxpayer with this bothersome recordkeeping requirement.

PREPARED STATEMENT OF HON. HAL DAUB, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEBRASKA

I would like to thank the Committee for providing this opportunity to discuss the serious burden which taxpayers face with respect to the new automobile record keeping requirements. Soon after Congress enacted the "adequate contemporaneous

record" requirement for automobiles, constituents began to make known the difficulties they faced in complying with the new law. During recent months, there has been a public outcry for the repeal of this provision. The extent of the administrative burden caused by these rules is becoming increasingly evident and we are indeed compelled to take immediate action to remedy this situation.

The Department of Treasury has responded twice with proposed regulations to assist taxpayers in complying with the new record keeping rules. These regulations, however, do more to add to the complexities of compliance than they do to simplify the issue. For example, farmers are provided an 80% safe harbor rate for some of their farm vehicles. This alone would help simplify matters. The regulations, however, go on to provide that a farmer must allocate the other 20% as taxable personal use to employees. Farm vehicles are often available for use by many different employees. Thus, this allocation process is a senseless burden when a farmer must allocate the amount between employees in some "reasonable" manner and then perform the payroll functions necessary to record this income.

As another example, employees who use employer-provided vehicles solely for commuting will be permitted to use a standard $3 rate. In many cases this would be simple and fair to the taxpayer. This exception to record keeping and more complex income computations is limited to only certain employees. Specifically, employees who are owners (1% or more) of the employing entity will not qualify for this treatment. As a result, most corporate farmers and small businessmen who use their vehicle solely for commuting will need to keep the records and compute their related taxable income using more complicated methods.

Very simply, the benefits derived from this auto record keeping cannot justify requiring the vast majority of our nation's employers and employees to maintain extensive trip-by-trip documentation. In many cases it is practically impossible to comply and some experts are suggesting that revenues could decrease as a result of the new rules. Add to this the burden of requiring employers to sort through the often voluminous records, to compute business and personal use values for each employee, and to provide for this non-cash income in the course of payroll and withholding administration. The sheer weight of paper generated by the new rules and corresponding regulations will seriously impair the ability of employers and employees to get on about their business. This at a time when economic growth and productivity are critical to our economic future.

The timing of these new rules could hardly be worse. Congress is just about to begin the debate over major tax reform. The House Ways and Means Committee will begin hearings this month on the subject. Meaningful progress in this endeavor will require the cooperation and support of our constituents in making the hard choices which will be inevitable. The hardship created by the auto record keeping rules has given these constituents little reason to approach more "tax reform" in a positive manner.

For these reasons, I have introduced legislation and supported legislation which would repeal the provisions of the Tax Reform Act of 1984 relating to the maintenance of contemporaneous records. It is important to note, however, that our responsibility extends beyond this particular provision. The proposed regulations as currently drafted contain serious implications for employees in the area of taxable fringe benefits. The larger portion of the text of these regulations deals not with record keeping, but with when an employee must recognize income from employer-provided vehicles and how such income would be measured. Congress would be remiss not to deal also with the employee income issue.

We can and must come to some better solutions for small businessmen and farmers, while insuring the integrity of our system. In addition to repealing the record keeping requirements we need to provide some simple and practical guidelines for many different kinds of employees. I have received letters from policemen wondering why they should be taxed for taking their police cars home at night so they can be available for an emergency. A similar situation exists with respect to emergency vehicles and service people who take their trucks and vans home at night when they are on 24 hour call. Moreover, if these people are owners of their own small business, they do not even have the advantage of using the simple commuting rate. Farmers obviously need more than the regulations have to offer.

Thank you again for this opportunity to speak out. It is important that this dialogue takes place and even more important that Congress take some immediate action. I am confident that because of the efforts of your Committee and many of the other Members, that we can get this monkey off the back of the American taxpayer and proceed with the more substantive tax reform measures which are so crucial to the small business and our nation's economy.

PREPARED STATEMENT OF HON. WAYNE DOWDY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MISSISSIPPI

Mr. Chairman, as the Representative from the Fourth Congressional District of Mississippi, I would like to express the overwhelming opposition of farmers and members of the business Community in my area to the new automobile recordkeeping requirements.

Workers in diverse professions, both in cities and rural areas in my district, have contacted my office about the problems posed by the new regulations.

Under the new IRS rules, valuable time must be taken from each business day to comply with the detailed mileage requirements. Small businesses and farmers will now be faced with increased bookkeeping expenses.

Everyone agrees that American taxpayers have a responsibility to report their tax deductions in a fair and honest manner. However, I think the IRS oversteps its bounds by imposing unreasonable regulations which hamper the operation of small businesses. Under the previous standard of "reasonable reconstruction of expenditures", the IRS could seek information about tax deductions without imposing time-consuming requirements on the business community.

On behalf of farmers and small business people in Mississippi, I recommend that we return to the previous standard so that the operation of businesses will not be unfairly interrupted by these unnecessary regulations.

PREPARED STATEMENT OF HON. BILL EMERSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MISSOURI

Mr. Chairman, I join my Colleagues in protesting the Internal Revenue Service regulations regarding "adequate contemporaneous records". I have been inundated with complaints about the new regulations requiring taxpayers to keep extremely detailed records on farm and business use of property. And frankly, while the IRS modifications to the original proposed rules are an improvement, they are simply not good enough.

We can all agree that the federal government has an obligation to do its best to collect the taxes that it is rightfully owed. However, the methods it uses to collect those taxes must be kept in line with common sense. Certainly, forcing small businesses and farmers to keep absurdly detailed and accurate records of very mile that contributes to their making a living is ridiculous.

The overwhelming majority of people pay their fair share of taxes and do their best to keep adequate records. Hard-working, honest Americans do not object to fair taxation—however, they strongly oppose excessive and unnecessary recordkeeping, and rightly so. We simply should not discourage our law-abiding citizens by unduly burdening them with more and more paperwork.

I have been overwhelmed by the sense of betrayal that has been communicated to me by Missourians as the result of these regulations. The people have held in good faith our supposed commitment to reducing bureaucratic red tape. Much has been said about how much has been accomplished in combatting the tremendous paperwork requirements of the federal government. Then, suddenly, another paperwork nightmare hits—requiring when, who, where, why, and how far, for each and every business use of an automobile or other property. Businessmen and farmers are left faced with spending more time recording than it takes them to drive the trip. It certainly isn't any wonder why there is oftentimes confusion about whether we are truly interested in decreasing burdensome paperwork.

If these regulations are permitted to stand, bookkeeping will become a monumental and overwhelming task for many small businesses and farmers. Those struggling to make ends meet and earn a decent living simply cannot afford to spend extra time and energy logging mileage rather than putting their resources to meeting the basic demands of the work day.

The senseless logging requirements are counterproductive. We simply should not abuse the American taxpayers' time and money be allowing these outrageous rules to stand. Let's return to the old system that simply required taxpayers to keep "adequate records" or "sufficient evidence" in order to take advantage of business deductions.

I urge my Colleagues to work to repeal the IRS regulations.

Thank you.

PREPARED STATEMENT OF HON. GLENN ENGLISH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OKLAHOMA

Mr. Chairman, Members of the Subcommittee, I am happy to have the opportunity to submit testimony to this Subcommittee on behalf of taxpayers in Oklahoma's 6th Congressional District who are currently facing an extremely threatening Internal Revenue Service requirement.

The contemporaneous recordkeeping requirement, more commonly called the vehicle logging rule, has fallen like axed timber onto American taxpayers. The IRS is basically requiring that certain taxpayers hand over a detailed list of how they spent their day in order to qualify for certain tax benefits on the depreciation of their business-use automobiles. I am hearing from taxpayers throughout Oklahoma's 6th District who adamantly object to these personally offensive restrictions. Not only is the requirement a serious threat to privacy, but it also clearly contradicts efforts to simplify tax provisions and efforts to reduce paperwork.

Businessmen and farmers simply have better ways to spend their time than filling out trip-log books to be tabulated at a later time. I am beginning to hear of cases where folks are sacrificing the tax reduction to which they are entitled just so they will not have to keep the record. I do not feel this was the intent of the law, and I do not feel this is fair. Many, if not most, of these business people and farmers do not hire full time accountants to help them keep these kind of records.

I voted against passage of this provision, and I feel the best solution now is to repeal the measure before further damage is done. Although I understand the IRS intends to issue modifications of the logging requirements, the agency has yet to actually do so. I am concerned that such modifications will further confuse the taxpayer and might make tax simplification an even more distant goal. Consequently, I am continuing my support for complete repeal of the logging rules.

PREPARED STATEMENT OF HON. LANE EVANS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

I want to thank Chairman Luken for the opportunity to testify at this hearing. I believe that the testimony offered today will demonstrate the need to overturn the "adequate contemporaneous records" regulations issued by the Internal Revenue Service.

This is a matter which directly affects millions of Americans. Farmers, small businesspeople, and salespeople, to name a few, rely on the use of their vehicles to perform their day-to-day work. The reaction from this group to the IRS vehicle recordkeeping regulations has been unanimous—they are strongly opposed.

As a co-founder of the House Populist Caucus, I strongly believe that the needs and concerns of the average American must be a top priority of Congress. The IRS vehicle recordkeeping regulations adversely affects this group, and today I am calling for their immediate repeal. I strongly believe that these regulations create an undue hardship for the many, while seeking to correct the unlawful actions of the few.

The average working man and woman are the foundation of our nation's strength. Comprising the core of each Congressional District in the United States, they embody the American work ethic. They believe in an honest day's work, take great pride in their community, and with few exceptions, pay the taxes levied on them by the federal government.

In these troubled economic times, many of these individuals have had their jobs and livelihood threatened. They have seen friends and neighbors lose their jobs and witnessed the closings and foreclosures of long-standing businesses, industries, and farms. Yet the majority of these citizens have managed to stay in business. They have been forced to make hard decisions, in hopes that their hard work and planning would pay off.

In the meantime, they have had reason to question the actions of the federal government. They read and hear reports of mismanagement, ineptitude, and indifference at the federal level. They begin to believe that Washington simply does not care about the "little guy". Nevertheless, these individuals hold on the their belief that government is looking out for their best interests.

Now the federal government has seen fit to add one more bit of evidence to the contrary. The decision to change the vehicle recordkeeping regulations at this time is undesirable and unnecessary. These regulations take valuable time away from those individuals whose daily work requires the use of a car or truck. In addition, these regulations create just one more layer of government redtape for our citizens

to unravel. And worst of all, these regulations competely ignore the burdens and worry already facing this group.

Prior to the issuance of these regulations, people who use their car or truck for business purposes were required to substantiate business use of their vehicle through adequate records or sufficient evidence corroborating his/her own statement. However, now these same people must choose among a litany of time-consuming recordkeeping options. Farmers, for example, who wish to deduct the use of a vehicle as a business expense have three options: treat their car/truck as a "farm vehicle" and keep a record of just the personal use of the vehicle, or keep no records and treat 80 percent of the use of the vehicle as being for business and 20 percent as being for personal use. Or, they may deduct the use of their vehicle under the "sales and service" category, in which they may keep records of strictly the personal use.

Sound confusing? You bet. And these are the revised regulations recently issued by the IRS. These revised regulations have done little to alleviate the confusion surrounding this matter, as noted by R. Sheridan Welch, an attorney from my District whose firm prepares a number of tax returns each year for area farmers: "The relief from the recordkeeping requirements, as published in the newspapers the last few days, make the matter more confusing and more burdensome rather than correcting the problem." In these days of near Depression in many farming communities it is definitely not the time to hit farmers and their suppliers with another burdensome, bureaucratic requirement.

In the past few weeks, my office has been inundated by letters and phonecalls calling for the repeal of the vehicle recordkeeping requirements. This is not a complaint that is being issued by just one narrow constituency group. Democrats and Republicans alike, accountants and salespeople, painters and bankers, engineers and even morticians—all have joined in opposition to these cumbersome regulations.

Mr. Douglas W. Ford of Geneseo, Illinois writes: "At a time when the American economy is faced with a challenge to increase productivity in order to combat foreign competition and trade deficits, it is inconceivable that our elected officials and government agencies expect us to go waste valuable time performing a task such as this. It is an insult to our collective intelligence that we are expected to accept this burden."

This is certainly not a case of a group renouncing its obligations as taxpaying citizens. This group, as a whole, pays it taxes and frowns upon those who seek to shirk this responsibility. Says John Cassidy, a businessman from Moline, Illinois, "My company is not opposed to tax reform. We are not opposed to closing loopholes. But reform of our tax system is hardly accomplished by adding an entire new layer of complex recordkeeping requirements which are as difficult to understand as they are to implement."

Rather, this is a revolt against government regulation at its worst. They seek only to right a situation that is clearly ill-considered, untimely, and unnecessarily burdensome. I believe that Mr. Robert Forman of Monmouth, Illinois best summed it up when he wrote: "Sooner or later, someone in power will realize that you can't kill the goose that lays the golden eggs and survive." I believe that we should heed this warning. Congress must let the average working man and woman know that we are committed to their general welfare. Let's employ the principle which our citizenry expects of us, namely common sense, and repeal these regulations now.

Prepared Statement of Hon. George W. Gekas, a Representative in Congress From the State of Pennsylvania

I first want to express my appreciation to the Small Business Committee for holding these timely hearings on an issue of major concern to business across the country. I am glad to be provided the opportunity to express the views of my constituents on the tax recordkeeping requirements promulgated by the Internal Revenue Service for business use of an automobile.

It is obvious that the problems created by the IRS' recordkeeping requirements are great; over 27 pieces of legislation have been introduced in the House and the Senate to repeal these burdensome regulations. Over 200 other members of Congress have also expressed their opposition to these regulations by cosponsoring one or more of these bills. I believe that Congress has realized the mistake they made by the inclusion of this provision in the Deficit Reduction Act. I now feel that it is time for them to act to repeal these provisions.

The response of my constituents and the constituents of many other members of Congress has been overwhelming. I have received hundreds of phone calls and letters about the new rules in the past few months. I have included portions of these

letters from my constituents throughout this statement because I believe that they provide an accurate gauge of the public's attitude towards the new IRS regulations.

The great amount of response from my constituents and the constituents of many of my colleagues clearly displays that the strong feelings of opposition to these regulations are not going to dissipate until Congress takes prompt action to repeal the contemporaneous recordkeeping requirements for business use of an automobile. Such legislative action is both appropriate and necessary because the cost and burdens imposed by the new law dictate repeal and because it appears that the Internal Revenue Service fails to recognize the magnitude of the problems created by its regulatory action.

As we all know, on January 25, 1985, the Internal Revenue Service announced its intention to issue temporary and proposed regulations modifying the requirement to keep adequate contemporaneous records for automobiles and certain other vehicles. Although the Internal Revenue Service has continually assured my office that these regulations will be published any day, I cannot help but feel that these proposed regulations will only eliminate some of the inconvenience. That these regulations have created. After reviewing these proposed regulations, I believe that business and farmers will still be burdened with increased paperwork and man-spent hours adhering to these regulations, a result totally counterproductive to the intents of the Deficit Reduction Act and the 98th Congress; to increase our economic productivity.

We should not place all of the blame for these regulations on the Internal Revenue Service. History dictates that over-excessive legislation will undoubtedly produce overexcessive regulations. It was the Congress, after all, that gave the Internal Revenue Service total free rein in the interpretation and implementation of this provision. The proposed regulations, even as the Internal Revenue Service proposes to modify them, are at once needlessly far-reaching, complex, and vague.

The "adequate contemporaneous" recordkeeping requirements are unreasonable, overly-burdensome, and counterproductive, and raise a large number of practical impediments to compliance for affected taxpayers which bespeaks a failure by the Internal Revenue Service to comprehend the realities of everyday business activity. As one of my constituents wrote:

"I just wanted to let you know I almost drove off the road the other day on the way to work. After shovelling off the snow, I was in a hurry to get going and get in to work on time. After a mile or two I realized that I had forgotten to write down the actual mileage of my car prior to leaving the garage. So that I wouldn't forget to do it, I took my daily log out from under the seat and jotted down the mileage at which I had started, and as I looked up, I was halfway into a turn and almost missed it."

Although I realize that this example may be somewhat exaggerated and dramatic, the main point of the comment is nonetheless very relevant and accurate. These regulations require excessive and unnecessary recordkeeping.

The fact that abuses existed under prior law cannot be questioned. Nonetheless, the vast majority of my constituents affected by the new regulations certainly do not drive "luxury automobiles" and have been accounting for the use of their company cars in a detailed and satisfactory manner under current auditing standards.

The new and additional recordkeeping requirements now imposed for the use of a company-owned or leased vehicle are simply unnecessary and harsh for the majority of taxpayers and will have a negative impact of their business performance and personal productivity. Small businesses, many of which can be found in my district as well as everywhere else in the country, simply cannot afford these additional government-imposed paperwork regulations if they are to maintain a competitive position in the marketplace.

The Internal Revenue Service refuses to acknowledge that the maintaining of adequate contemporaneous records creates too severe a burden on business. However, the great amount of Congressional opposition to these initial regulations brought about the proposed revisions of the requirements, which we are still all waiting to see formally published in the Federal Register. The fact that the Internal Revenue Service is clearly dragging their feet on this matter makes me question the seriousness of their intentions to help relieve some of the burdens that have been placed on this country's business. Can we really assume that these proposed regulations will be the last we hear of the many problems that our constituents are having?

A sampling of the comments that I received from hundreds of my constituents about the recordkeeping regulations is instructive for the points they make and the problems they underscore . . . practical problems such as loss of productive time, vehicle use for more than one employee, and vehicle and employee transfers which

merit careful examination by this committee, which had the foresight to hold this hearing, and by the Congress as whole.

A constituent from Harrisburg states that:

"I wish that some of the people in government would spend one month in business to experience the burdensome reports that we are already required to file with the various agencies of the government. We do not need any more regulations requiring further reporting and tabulation. It is almost as if the government was trying to prevent small businesses from being able to actively compete with their larger counterparts."

A Chief of Police in my district voices similar sentiments:

"Whoever dreamed this regulation up fails to realize that a Chief of Police is first of all never off duty. He needs his vehicle because of its radio equipment and other police equipment he may keep on hand in the event he gets called out in the middle of the night, a weekend or holiday. When he leaves his home and starts the car he turns the radio on and is at work at that moment." . . . "When I left my home even to go to the local ACME store I was armed and the radio was on. I was on duty and perhaps over a 1000 times got involved in police actions that did not occur on weekdays between nine and five. More than 1000 times I was called out at night and if I had to drive my personal car to the police station in order to pick up a car to communicate with my officers it would be a great handicap. Also each time I used my car there was another unmarked police vehicle on the streets of Lansdowne protecting the public."

Yet another constituent states:

"If you drive a company car and keep a record book in the glove compartment, it is almost impossible to write down every single trip and its purpose and every single expense. There are so many things that can interfere with the keeping of proper records. If you miss several entries then your records are no longer accurate." . . . "There is also the situation when another company employee drives the car assigned to you and does not record the entries. There is also a situation where you drive another company car and someone has taken the record book out of the car."

A restaurant owner wrote to tell me that:

As the principal owner of a small restaurant—a business is as much a part of my life as my home and family—it becomes impossible to separate "business" and "personal" miles on the truck and van that I use in many many cases."

Still another frustrated businessman wrote and informed me that:

"The IRS regulations work against the sound principle of reducing government involvement in business and industry, as well as its working citizens, who should be allowed the freedom to devote their time and effort to more constructive pursuits to improve the economy of Pennsylvania and the nation as well." . . . "What our economy does not need are even more roadblocks and hurdles than exist now. The massive amount of extra costs imposed through wasted time, additional employees, and unnecessary paperwork which is being generated by the Internal Revenue Service's approach is totally unreasonable. Business and industry cannot bear this costly additional recordkeeping and paperwork overload and produce the results expected from our economic system."

It could not be more obvious that the new and additional recordkeeping requirements now imposed for the use of a company-owned or leased vehicle are simply not necessary and are tremendously harsh for the majority of taxpayers and will have a negative impact on their business performance and personal productivity. Small businesses like those that comprise the business communities in my district simply cannot afford these additional government-imposed paperwork regulations if they are to maintain a competitive position in the market place.

I do not believe that the problems created by these auto recordkeeping requirements can be rectified by changes announced, but not yet officially published, by the Internal Revenue Service which would exempt certain taxpayers from the recordkeeping requirements and provide safe harbors for others. The proposed regulations simply eliminate some individuals from these disastrous regulations while still leaving whole segments of affected taxpayers unjustifiably burdened by the new rules.

Consequently, I do not believe that anything short of total repeal of the contemporaneous recordkeeping requirements will resolve the practical problems created by the new regulations. I have introduced legislation in this regard, H.R. 589, as have some 27 other members of the House of Representatives and the Senate, and I am hopeful that Congress will act quickly to join together and pass one comprehensive piece of legislation to repeal these regulations. Time is of the essence, for until taxpayers are guaranteed of the total elimination of the burdensome regulations, which can only happen with the repeal of these regulations, I am sure many individuals will be fearful to cease maintaining the necessary records.

The contemporaneous recordkeeping requirements for the business use of an automobile imposed by the Deficit Reduction Act of 1984 were a mistake in the abstract and have proven to be even a worse idea in practice as implemented by the Internal Revenue Service regulations. In reality, the costs to business of complying with the new requirements is likely to be greater than the amount of revenue raised by the government as a result of these regulations. Stated somewhat differently, the cost/benefit ratio of the regulations is clearly indisputable and indefensible and they should be repealed. Congress must act quickly to correct its mistake before it is too late.

In closing, I would like to again express my appreciation to the Small Business Committee for providing me with the opportunity to express my views, and the views of my constituents, on this matter. I would also like to again commend the Committee for its recognition of a serious problem and its efforts to rectify that serious problem.

PREPARED STATEMENT OF HON. W.G. (BILL) HEFNER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NORTH CAROLINA

Mr. Chairman, I thank the Committee for holding these hearings and for the opportunity to present to you my comments on a matter of paramount concern to a great many of my constituents.

On January 22, 1985 I introduced legislation to repeal the provisions of the Tax Reform Act of 1984 relating to the maintenance of contemporaneous records for vehicles used for both business and personal use. I did so not because I have a specific quarrel with the requirement that business use of automobiles, etc., constitute 50 percent or more for business purposes in order to be eligible for the investment tax credit and the accelerated cost recovery tax deductions, but because I do not believe that Congress intended the extremely burdensome paperwork requirements imposed by the section of the new tax law which mandates contemporaneous record keeping.

Our aim should be to simplify the tax code and to make compliance less costly for small businesses and farmers, yet this provision places the greatest burden on these groups, forcing them to hire additional personnel just to keep the required records. As an illustration of the nuisance of the record keeping requirement, I am enclosing herewith copy of automobile entries for the month of January made by a businessman in my district. Clearly, the record keeping requirements are quite meticulous, making it extremely difficult for small businesses to comply.

Law enforcement officials and service personnel find the requirements particularly troublesome. I have sought from IRS a more definitive answer to the question of determining commuting status for law enforcement officials and service personnel who often must make official stops or calls enroute to and from home. To date, IRS instructions for employees who are assigned vechicles for on-call duty have been vague and ambiguous.

Small businesses, farmers, law enforcement officers, and service personnel are not the abusers of the tax code in this instance, and they should not be asked to bear so unreasonable a burden. In the words of some of my constituents . . . "I don't believe that I have ever seen a better example of 'overkill'." . . . "This law is an absolute disincentive to anyone to use a company supported vehicle, and will ultimately have an effect on overall operating efficiency of this and other companies. Inefficiency directly affects costs and value to our customers." And in the words of a farmer . . . "In all the years of my life have I heard such cussing of the government as now. Farmers are raising cain about it all over the place. It is bothersome, irritating, aggravating, and a few other adjectives."

Mr. Chairman, I believe it is imperative that Congress repeal this section of last year's tax bill immediately, returning the Tax Code to its original status with respect to the records required for backing up the tax deductions for mixed business and personal use of business owned property.

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1

Month Ending January 31, 1955

Date	Day of Week	From	To	Mileage Reading Beginning	Mileage Reading End	Deduction Business Mileage
1/2	W	home to office	office	56,188	56,192	4
1/2	W	office	Pres. Bd. of Education meeting	56,192	56,196	4
1/2	W	meeting of Bd. of Education Regular Mtg.	office	56,196	56,200	4
1/2	W	office	[illegible]	[illegible]	56,203	3
1/2	W	service station	office	56,203	[illegible]	8
1/2	W	office	Lions Club meeting	56,203	56,211	8
1/2	W	Lions meeting	home	[illegible]	[illegible]	8
1/2	W	office	Bd. of Ed. meeting	56,214	56,220	6
1/2	W	meeting	office	56,220	56,225	5
1/2	W	office	home	56,226	56,226	
1/3	Th	home	office	56,226	56,226	
1/3	Th	office	Jackson Realty	56,226	56,230	4
1/3	Th	Jackson Realty	[illegible] meeting	56,230	56,231	1
1/3	Th	Mallon Realty listing	office	56,230	56,234	4
1/3	Th	office	home	56,234	56,235	1
1/4	F	home	office	56,235	56,235	0
1/4	F	office	Rec. meeting chamber	56,235	236	1
1/4	F	Rec. meeting chamber	office	236	238	2
1/4	F	office	home	238	238	0
1/4	F	lunch	office	238	239	1
1/4	F	[illegible]	office to [illegible]	239	240	1
1/4	F	[illegible]	Bell Telephone	239	247	8
1/4	F	[illegible]	office	242	253	11
1/4	F	office	home	255	255	0
1/4	F	home to [illegible]	personal trip	255	263	8
1/5	W	home	office	263	264	1
1/5	W	office to [illegible]	Rotary dinner meeting	264	311	47
1/6	Th	office	home	311	312	1
1/7	F	home	office	312	312	0
1/7	F	office	[illegible]	312	314	2
1/7	F	[illegible]	[illegible]	314	333	19
1/7	F	[illegible]	office	333	357	24
1/7	F	office	[illegible]	347	351	4
1/8	Sa	[illegible]	[illegible]	357	359	2
1/9	Su	[illegible]	office	359	361	2
1/10	M	office	[illegible]	361	365	4

Total - This page	161
Prev. Period	0
Cumulative for	161

2

Month Ending January 31 1955

Date	Day of Week	From	To	Mileage Reading Beginning	Mileage Reading End	Deduct for Business Mileage
1/7		coffee room	office	56,365	56,365	7
1/7		office	home	56,365	368	C
1/7		home to town	personal trip	365	376	C
1/8		home	office	376	377	C
1/8		office	[illegible]	377	378	1
1/8		[illegible]	office	378	379	1
1/8		office	home L	379	380	1
1/8		home L	office	380	381	1
1/8		office to office	[illegible]	381	406	25
1/8		office	noting [illegible]	406	407	1
1/6		meeting	office	407	408	1
1/8		office	home	408	409	C
1/9		home	office	409	410	C
1/9		office - office	[illegible]	410	420	C
1/9		office	[illegible]	420	431	11
1/8		Jackson Bld.	office	431	441	10
1/7		office	home	441	442	C
1/9		home to town	personal T. P.	442	448	0
1/10		home to	office	448	450	C
1/10		office	Bld & office	450	452	2
1/10		Bld & office	office	452	454	2
1/10		office	[illegible]	454	456	2
1/10		[illegible]	[illegible]	456	458	2
1/10		main st	office	458	460	2
1/10		office to office	home L	460	462	2
1/10		office to office	[illegible]	462	474	8
1/10		office	home	474	474	C
1/10		home to town	personal trip [illegible]	474	482	05
1/11		home	office	482	490	C
1/11		office	[illegible]	490	493	3
1/11		Carl T Ross	office	493	495	2
1/11		office & office	[illegible]	495	499	4
1/11		office	home	499	499	C
1/12		home to home	[illegible]	1189	517	C
1/13		home	office	517	515	C

Total — This page 54

Prior Period 161

Cumulative for 245

3

Month Ending January 31, 1955

Date	Day of Week	From:	To:	Mileage Reading Beginning	Mileage Reading End	Deduct for Business Mileage
1/13		office	old concord Rd	518	531	13
1.3		Old concord Rd to	office	531	544	13
1/13		~~office~~	home	544	544	0
1/14		home to home	to store &	544	547	0
1/14		home	office	561	555	6
1/14		office	church but office	558	560	2
1/14		back office	office	560	562	2
1/14		office	home	562	563	5
1/15		home	office	563	563	1
1/15		office	post office	563	565	2
1/15		post office	office	565	567	2
1/15		office	old concord Rd to	567	581	14
1/16		old concord Rd	office	581	594	13
1/16		office	N Liberty Rd to	594	607	13
1/16		Liberty Hollow	office	607	620	13
1/16		office	church	620	621	1
1/16		church	office	621	622	1
1/16		office to office	Meeting	622	629	7
1/16		office	home	629	636	7
1/18		home	office	635	636	1
1/18		office - office	old concord Rd to	636	638	2
1/18		office	N Church St	638	643	5
1/18		home Rod. Sch	home Rod. Sch	643	645	2
1/18		home Rod Sch	office to church	690	691	1
1/18		N Church St	office	691	695	4
1/18		office	home	695	695	0
1/19		home	office	695	696	0
1/19		office to office	Eastwood church	696	716	20
1/19		office to office	church	696	700	4
1/19		office office	N Church St	700	704	4
1/20		office office	eastwood church	704	725	21
1/20		office office	home Rod Sch	725	728	3
1/20		office office	Old Thomson Rd	728	731	3
1/20		office ~~home~~	home	731	732	1
1/21		Home	office	732	732	0
1/21		office office	Miles court	732	735	3

Total - This Page: 169

Total Period: 245

Cumulative Total: 414

4

Month Ending January 31, 1955

Date	Day of Week	From	To	Mileage Reading Beginning	Mileage Reading End	Number of Business Miles
1/18		office - office	church	56,685	56,686	1
1/20		office - office	conference with Mayor	56,686	56,704	20
1/15		office -	home	56,704	704	0
1/16		home - home	to school	56,702	56,715	0
1/19		home - home	to church	56,715	56,716	5
1/19		home - home	to city town meeting	56,716	225	9
1/20		home - home	to city town meeting	56,725	734	9
1/24		home	office	729	734	5
1/21		office - office	city hospital - in Hope another city in second town	734	745	11
1/21		office - office	Hollen Post Office	745	761	16
1/21		office - office	county home with Mrs Clark	761	769	8
1/21		office	home	769	770	0
1/22		home	office	770	770	0
1/22		office - office	Hampton - Fisher Lumber	770	778	8
1/22		office	home	778	779	0
1/23		home	office	779	779	0
1/23		c - c	Hope city-wide basketball for CBC	779	795	16
1/23		c - c	local meeting	795	802	7
1/23		c - c	Miller St. - then Office	802	806	4
1/23		c - c	Howard St. - then	806	809	3
1/24		office	home	809	809	0
1/24		home	office	809	810	0
1/24		c - c	office - Hope for	810	815	5
1/24		c - c	Prescott, Ark's office	815	820	5
1/24		c - c	Southern Comfort Corp	820	861	41
1/24		c - c	Columbia - then Hope	861	864	3
1/24		office	home	864	865	0
1/25		home	office	865	866	0
1/26		office - office	Court House	866	872	6
1/26		office	home	872	872	0
1/28		home - home	personal	872	898	0
1/27		home	office	898	899	0
1/27		office - office	[illegible]	899	924	25
1/27		office - office	[illegible]	924	925	1
1/27		office - office	[illegible]	925	952	24
1/27		c - c	home	952	953	1

Total - This page 226

From Period 414

Cumulative for 640

5

Month Ending January 31, 1955

Date	Day of Week	From	To	Mileage Reading Beginning	Mileage Reading End	Number of Business Miles
1/24		office	home	56953	57054	0
1/28		home	office	954	954	0
1/28		office - office	Lafayette, IN and other parking stalls	954	962	8
1/27		O - O	Police Station	962	966	4
1/29		office	home	966	967	0
1/30		home	office	967	967	0
1/30		O - O	Purdue Campus - Child to office	967	971	4
1/30		O - O	Stafford Hills	971	973	2
1/30		O - O	Purdue Campus - Chemistry Building	973	977	4
1/30		O - O	Purdue Campus - Child to Hall of Agriculture	977	983	6
1/31		office - home	Purdue Campus	983	989	0
1/31		home	office	989	989	0
1/31		O - O	Purdue Campus - Chemistry Building	989	993	4
1/31		O - O	Stafford Hills	993	7021	28
1/31		office	home	7024	7022	0

60

640
60
700 MILES - BUSINESS
1-1-55 - 1/31/55

1/1/55 - 57022
- 1/2/55 - 56192
830 TOTAL MILES

BUSINESS = 84.3%

155 RESIDUES FOR CHARGE

Total - This page 60
Last Report 640
Cumulative Total 700

PREPARED STATEMENT OF HON. FRANK HORTON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. Chairman, I want to commend you for holding this hearing on "tax record keeping for business automobile use;" and thank you for the opportunity to submit my comments for the record. Specifically, I would like to address the new IRS regulations on "adequate contemporaneous records" and the burden they place on farmers, salesmen and other small businessmen.

As you may remember, I chaired the Commission on Federal Paperwork from 1974 to 1977. During that time, the Commission worked hard to review Federal paperwork and made recommendations to enable the Federal government to serve the American people efficiently and effectively. Much of our effort focused on reducing the paperwork demanded by the Internal Revenue Service. These new IRS regulations are a significant step away from our ongoing effort to reduce the intrusion of government in the daily lives of the American people.

I would like to share with you a portion of my 1977 transmittal letter from the Final Report of the Paperwork Commission which is particularly pertinent to today's discussion:

"The theme we heard repeatedly throughout the country is that the vast majority of Americans want to obey the law. Most Americans want to cooperate and participate in furthering Federal programs and national goals. However, these people can be frustrated by a government which, in their view, does not trust them. . . ."

"Many people feel, and the Commission agrees, that a multibillion dollar wall of paperwork has been erected between the government and the people. Countless reporting and recordkeeping requirements and other heavy handed investigation and monitoring schemes have been instituted based on what we view as a faulty premise that people will not obey laws and rules unless they are checked, monitored, and rechecked.

"This situation and this assumption must be reversed if we are to restore efficiency within government and confidence in government by the people and if we are to realize the potential for cooperative attainment of our goals as a Nation. Many of the major conclusions and recommendations of the Commission on Federal Paperwork are aimed at this goal."

These words, and the philosophy they represent, are as true today as they were in 1977. Citizens, by and large, have no problem maintaining necessary tax records. But the record keeping required in these regulations is, at the very least, excessive, burdensome and beyond reason. I hope that you will join me in the effort to repeal these unreasonable regulations.

PREPARED STATEMENT OF HON. JERRY HUCKABY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF LOUISIANA

I would like to today submit a statement for the hearing record urging this Committee to report legislation to repeal the "adequate contemporaneous" record-keeping requirement that was added to section 274(d) of the Internal Revenue Code during consideration of the Deficit Reduction Act of 1984.

There has been a great outpouring of protest from those who have heard of the regulations. In my State of Louisiana alone, I have received phone calls and letters equal to the number I received over the withholding on dividends and interest tax issue, which was eventually repealed. Of greater concern are those who are ignorant of the regulations and will be penalized by the IRS for failure to produce these mountains of paper records.

I feel that this requirement is way out of line. Taxpayers need less paperwork, not more. Certainly, deductions intended to encourage economic activity should not be abused, but this tax compliance measure is going too far. It is a prime example of the cure being worse than the disease. In all likelihood, the change if left intact would result in increased forgery of records, or aggravate the average citizen to the point where he would not take advantage of the deduction to which he was entitled.

I represent a rural congressional district of many farmers, small businessmen and sales people. They are hardworking people who confront enough roadblocks to economic success daily without this additional paperwork burden. They have been telling me that they have suffered a loss of productivity in just the two months this onerous record-keeping requirement has been in effect. It is conservatively estimated that the cost to the consumer nationwide is at least $7 billion. In my opinion, that is an incredible price to pay for the relatively miniscule gain in revenue estimated at slightly more than $100 million for the Treasury.

On February 19, 1985, the IRS issued amendments to the proposed regulations on contemporaneous standards. The modifications inject additional complexities for small businesses without clarifying in very definite terms who must maintain a log and who is exempt. I think a reasonable standard, such as existed prior to passage of the Deficit Reduction Act, should be made to apply across the board, treating taxpayers equally.

A majority of Members of Congress have now cosponsored repeal legislation, including myself. I urge the Committee to act expeditiously on the issue to end the confusion that exists among people trying to comply with regulations which have been altered since their inception, and which face further alteration either through legislation or following the current public comment period.

PREPARED STATEMENT OF HON. ANDY IRELAND, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

As a Representative of numerous small business men and women and the consumers of their products as well as a member of the House Small Business Committee, I am pleased to have this opportunity to express my support for the repeal of Section 179(b) of the Deficit Reduction Act of 1984.

The Deficit Reduction Act and the goals it set out to achieve deserved and received my proud support. I continue to strongly advocate the efforts set forth in this legislation to curtail the abuses of our current tax code which lead to inequities and unfair practices within our economic system.

I am not hesitant to say, however, that the provision in this piece of legislation, which requires that business people who use a vehicle during the course of their business day maintain "adequate and contemporaneous records" in order to substantiate the legitimacy of their business activities, has proven to be an unjustifiable burden to honest taxpayers.

Without the benefit of the testimonials of those good, honest, taxpaying, small business people as to the day-to-day impact of this legislation, legislators might still be ignorant as to the effects of these changes. I have received hundreds of letters from those small business people in my District informing me of how this new ruling will hamper their ability to conduct their businesses efficiently.

Not one of these individuals has directed their complaint toward the intention of the law or their fear toward a possibility of an increased tax liability. All advocate the paying of their fair share of taxes and have been doing so under the former regulations.,

Anyone who has had to deal with the realities of the "bottom line" can surmise that any employer who allows those vehicles deemed to be for business purposes to be driven for unrelated errands or personal pleasure cannot imagine, at the same time, that this employer is interested in staying in business.

How can we speak of freeing our most productive and risk-taking sector of the economy—the small business sector—from unnecessary paperwork, regulations and governmental intrusion and at the same time, ignore the reality of what these increased requirements will mean to them in terms of manpower, time, dollars and survival in the competitive markets?

This provision has already impacted millions of American business people, and it is estimated that—if unchecked—it will result in billions of dollars in lost productivity.

These new regulations are not consistent with our push toward finally reviewing our nation's tax system with increased simplicity and fairness for the taxpayer as our ultimate goal.

The Internal Revenue Service has issued its modifications to these requirements. I think that we can agree with our small business constituents that these changes will only serve to carve out narrow exceptions to the requirements while leaving out whole segments of affected taxpayers unjustifiably burdened by the new rules.

Congress passed this law. The economies of this regulation are indefensible. These requirements will stifle economic activity and work against not only the small business community but the consumer and our economic recovery as well.

Therefore, I continue to support a legislative repeal of this provision. I am heartened by the fact that the majority of my Congressional colleagues have signified their support for such a measure.

PREPARED STATEMENT OF HON. ED JONES, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TENNESSEE

I appreciate the opportunity to express my opposition to the recent regulations formulated by the Internal Revenue Service that would require automobile and small truck owners to keep "contemporaneous records" for their business use.

These IRS regulations would place a terrible burden on the small businessmen and farmers who use their vehicles for both business and personal use. The records required for each use would be the date of the trip, the mileage, the purpose, the time, and the name of the person all to be recorded at or near the time the vehicle is used.

Since the determination of these rules by the IRS, I have been contacted by hundreds of people in my District who feel that this type of record-keeping is an unnecessary burden because of the large amounts of paperwork and time expended to keep such specific records. These small businessmen, farmers, salespeople, and contractors do not object to paying taxes on the business use of their vehicles, but want to follow more reasonable rules.

I, too, feel that these regulations are too burdensome for the businessmen and farmers to keep for each trip they may make. While I understand that a certain amount of record-keeping is necessary for reporting business and personal use of a vehicle, the requirements of the IRS regulations are excessive and unnecessary.

There seems to be an overwhelming amount of support for legislation to revise or repeal these IRS regulations. It would be my hope that legislation would be addressed in the near future to resolve this situation. In the meantime, I will be anxious to see the proposed modifications the IRS has stated it will issue in the next few weeks. With the Congressional and taxpayer opposition to the rules, the revisions should be substantial ones to alleviate this burden imposed on the American taxpayer.

PREPARED STATEMENT OF HON. BOB MCEWEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO

Mr. Chairman, it is a pleasure to submit this statement to the Committee. It is estimated that the American taxpayer spends an average of 2 hours and 40 minutes out of each 8 hour day to pay for federal, state and local taxes. As if that isn't enough, the recently enacted tax code provision calling for contemporaneous logs for legitimate business deductions adds to this already outrageous amount of time that many taxpayers must spend in the service of the state.

These rules of the Internal Revenue Service mean that farmers and small businessmen must take even more time away from what they do best, creating jobs and opportunities, to be an accountant for the government.

On January 21, 1985, I introduced H.R. 536, a bill to repeal these substantiation requirements of the Internal Revenue Service. This legislation repeals the provisions of the Deficit Reduction Act of 1984 which led to these regulations.

The way these substantiation requirements came about is a classic case of Washington in action. First, Congress decided to do something about the deficit. So it passed a bill called the Deficit Reduction Act of 1984 purporting to do just that: reduce the deficit. We all know how well this worked. Deficits, rather than shrinking, have actually increased dramatically since passage of this bill.

What this legislation really accomplished was a tax increase of $50 billion. At the same time small businessmen and farmers were strapped with additional paperwork, and perhaps even worse, the presumption that they cheat on their taxes.

Attached for the record are just a few of the letters I have received about these regulations and the effect it is having on honest taxpayers.

While I applaud the actions of the administration to deal with this mandate from Congress, only we can correct this error in reasoning.

Mr. Chairman, I am pleased that the House Small Business Committee has taken the time to examine this issue and I urge members to recommend the repeal of the Tax Code provisions which led to these unfair requirements.

CITY OF JACKSON, OH, *January 30, 1985.*

Hon. ROBERT MCEWEN,
Congressman, Ohio 6th District, 507 Cannon Building Washington, DC.

DEAR CONGRESSMAN MCEWEN: I am writing this letter to express concern over the new IRS regulation concerning the tax law on withholding for automobile use by employees of a municipal government.

The employees of the City of Jackson are not permitted private use of city vehicles, yet this regulation requires more paper work just to document this fact.

We would appreciate any effort you can provide in the elimination of this regulation, or modification thereof.

Very truly yours,

BURLEIGH OILER.

TIM AND TOM HARTSOCK,
Chillicothe, OH, January 25, 1985.

Representative BOB MCEWEN,
House Office Building,
Washington, DC.

DEAR REPRESENTATIVE MCEWEN: I am writing to protest the new tax law which imposes a massive and expensive record keeping and paperwork burden on our business in order for us to keep tax deductions on our vehicles. It is very unreasonable to expect agriculture to keep logs that are required to make our vehicles tax deductible. We are constantly using these vehicles for many short trips each day. The efficiency of our business would be greatly reduced if we had to record the required information.

I recognize that there has possibly been some tax deductions taken that were not within the intent of the law, but to penalize all of us for a few problem cases seems ridiculous to me. Let's make it everyone's responsibility to know and understand the tax laws and to take the proper deductions. Let's not overburden business with additional, unnecessary paperwork.

Sincerely,

TIMOTHY N. HARTSOCK.

FAYETTE LANDMARK INC.,
Washington C.H., OH, January 29, 1985.

Congressman BOB MCEWEN,
House of Representatives
Washington, DC.

CONGRESSMAN MCEWEN: I'm writing concerning the Tax Reform Act of 1984 requiring the logging of business miles on company owned vehicles. Fayette Landmark is presently trying to comply with the law. However, we find it impossible to keep the record accurate. It is taking unproductive man hours to keep the records and we feel that it is impossible to police and enforce the law. We feel this law is contrary to President Reagan's goal of less Government regulation and red tape. I am asking that you please use your authority to have this section of the Tax Reform Act repealed.

Sincerely,

ROBERT LANKER, *General Manager.*

HOWARD MILLER,
Washington, C.H., OH, January 26, 1985.

Hon. BOB MCEWEN,
House Office Building,
Washington, DC.

HI BOB: I am writing this note to protest the new tax law that went into effect January 1, 1985, which requires that a log be keep for the use of all equipment that we normally use and in such detail that we would not have time for anything else. This law imposes massive and expensive recordkeeping and paperwork burden for businesses in order to keep our legitimate tax deductions.

I urge you to use your influence to get me and other businesses relief from these unnecessary and unprecedented burdens. In my opinion, American business cannot bear this additional burden of doing business. This paper-generating provision is interfering with normal business operations. I do not object to fair taxation, but I do object strongly to excessive and unnecessary recordkeeping requirements.

Any help you can give us in this matter will greatly appreciated.

Yours Truly,

HOWARD MILLER.

PREPARED STATEMENT OF HON. DANIEL A. MICA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. Chairman, I appreciate this opportunity to share my opposition to the IRS requirement that a contemporaneous log be kept to support the deduction for any claimed business use of an automobile.

It is my belief that the increased paperwork and overall burden of adhering to these changes will result in a significant loss of productivity for the businessmen and women of this country.

This change in the law has added unnecessary regulations that only increase frustration with the tax code and waste valuable time and energy.

If the economy is to continue to grow, the Congress must resist the temptation to add further obstacles to business. I support efforts to reduce the deficit, but these new regulations only serve to frustrate the honest and hard working businesses that keep our economy strong and they serve no substantial deficit reduction purpose.

This hearing is an important step in addressing the resentment and frustration that is building in our business community over these regulations. As is the case with all my colleagues in the Congress, my office has been contacted by ever increasing numbers of constituents who oppose these IRS regulations. I have submitted, for the record, copies of letters that demonstrate the problems associated with this change in the tax code.

I am encouraged to note that Congressional opposition to this provision has continued to grow. I have introduced and supported legislation to repeal these regulations and I urge immediate action on this problem. Mr. Chairman, I commend you for your leadership in holding these hearings and look forward to working with you to repeal these burdensome regulations.

[Telegram]

ENTERPRISE LEASING CO,
Lauderdale Lakes, FL, February 4, 1985.

Representative DAN MICA,
Capitol One, DC.

During the past 60 days, Enterprise Leasing Company has met with over 250 clients operating fleets ranging from 5 to 1000 cars and light trucks. The burdens of recordkeeping and exposure for slight noncompliance with the new automobile rules have caused many to consider elimination of company cars. An employee who is reimbursed, rather than given a company car, will trade less often, be less productive, spend more for the same "Business Tool", and suffer an inordinate recordkeeping burden. Clearly it was not the intent of Congress to trade a few tax dollars for sharply reduced new car sales and lower productivity. Please join your colleagues in putting this matter into perspective. Thanks.

LANNY R. DACUS, *Vice President.*

[Telegram]

WEST PALM BEACH, FL, *January 29, 1985.*

Representative DAN MICA,
Longworth House Office Building,
Washington, DC.

The new IRS auto record keeping rules are counter productive and will be unworkable and costly for both employer and IRS. Please take action to correct this new ruling.

JOE T. BOYNTON.

WILLIAM H. TYRE, INC.,
Boca Raton, FL, January 16, 1985.

Congressman DAN MICA,
U.S. House of Representatives, 131 Cannon House Office Building, Washington, DC.

DEAR DAN: The topic of conversation these days is the asinine rule authorized by Congress and imposed by the I.R.S. that pertains to the use of automobiles for business. Any elected official who runs for office opposing this rule will receive more votes than they expected.

When my CPA advised me of the requirements, I could not believe that Congress would allow this. I especially feel for those people who have to travel many miles to

work or the grove workers and farm workers whose pick-ups now have to be accounted for. I would rather see a flat tax rate, no deductions except interest on mortgages and straight line depreciation on building life expectancy and eliminate most of the work for the I.R.S.

I have now become a bookkeeper in order to keep my mileage. As one of the executives for a large Florida Corporation told their employees, "Congress and the I.R.S. just made 700 employees liars and thieves".

Seriously, Congressman, can't this thing be repealed? To me it is a punitive act to punish all for the sins of a few. I wonder if the top bureaucrats in Washington and our military leaders will list their limousine service as income?

Please see if you can't get this rule repealed. In the meantime, belated congratulations and keep up the good work (except for this stupid rule).

Sincerely yours,

WILLIAM H. TYRE.

THOMAS AND BILLINGTON,
Pompano Beach, FL, January 15, 1985.

Re New requirement for keeping logs on automobiles on use of firm owned cars.

Hon. DANIEL A. MICA,
House of Representatives, Congress of the United States, 131 Cannon Building, Washington, DC.

DEAR CONGRESSMAN MICA: The new log keeping requirement imposes a tremendous expenditure of time for each year by years end. One cannot help but think Congress has taken a taxpayer be damned attitude for having no regard for the time spent logging as compared to the tax revenues produced.

Would you please inform me as to whether the logging requirement is applicable to the President, members of Congress, Ambassadors, military personnel, and all Federal governmental employees who are assigned or use government vehicles.

It would be ridiculous to require the President to log private use of government vehicles, but on the other hand, why not if that same government is demanding the logging of all such situated taxpayers.

In this our democracy, all should be treated with the same lack of consideration.

Very truly yours,

JAMES B. THOMAS.

ARMOUR EXTERMINATING CO.,
West Palm Beach, FL January 31, 1985.

Commissioner of Internal Revenue,
Attention: CC: LR: T (LT-145-84),
Washington, DC.

DEAR SIR: I have recently become aware of the Tax Reform Act of 1984 and Internal Revenue Service Regulations. More specifically, a most burdensome item revolving around personal use of company owned automobiles. This new law requires extensive and detailed records be kept; it limits personal use of company vehicles; it intrudes upon a business decision to afford employees additional benefits by unfair taxation. Our company is a small service organization. A company vehicle is used by each employee every day; these vehicles are driven to and from work by the employees not only for their personal benefit but also in coordination for scheduling daily work. Accounts are scheduled so that a service technician begins his day working accounts in a geographical proximity to his home, not the office. His day may well end in the same fashion. The viscosity of the bookkeeping requirements indicates little forethought as to the practicality of these requirements. It is difficult enough in todays market to employ responsible and conscientious service personnel without the burdensome bombardment of frivolous paperwork.

I sincerely hope this letter will in some way persuade those responsible for these regulations to rethink portions of the Tax Reform Act of 1984. It is truly damaging to America's business, especially the small business and its employees.

Sincerely,

JOSEPH F. JACKSON,
Vice President/Operations.

ROOF STRUCTURES INC.,
Fort Lauderdale, FL, January 31, 1985.

Re IRS Auto Record Keeping Rules.

Hon. DAN MICA,
U.S. House of Representatives, 131 Cannon Building, Washington, DC.

DEAR REPRESENTATIVE MICA: The new rules for record keeping for our company-owned vehicles is creating a massive chore for all the drivers here. Our people drive daily to numerous jobsites and other destinations and have found the extra work involved to be time consuming and frustrating.

Please be aware not only of the added paperwork entailed, but also the compliance cost involved in what has to be excessive record keeping for businesses such as ours—actually, for all businesses.

Whatever you can do to remedy this situation at the IRS meeting will be appreciated.

Very truly yours,

JOHN E. CUSTER, *President.*

DAVIS ASSOCIATES, INC.,
Pompano Beach, FL, February 1, 1985.

Re New Tax Law.

Congressman DAN MICA,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN MICA: The enclosed new record keeping requirement by I.R.S. is the most ridiculous thing I have seen perpetrated by the Government in my lifetime.

The burden is too much for any business, large or small.

If you personally voted for this change or if you were not paying attention when some idiot tacked it on some other legislation, you will never get another vote from me or my family or any other support.

Please have this legislation repealed immediately.

Thank you.

DAVIS ASSOCIATES, INC.
HUGH R. DAVIS.

ACTION CALL,
Washington, DC, January 19, 1985.

Issue: IRS auto recordkeeping rules.
Action needed: Wire or phone your Members of Congress and the IRS, urging relief from this overly burdensome provision.

New tax law imposes massive and expensive recordkeeping and paperwork burden in order for businesses to keep their tax deductions for company vehicles and selected property.

THE SITUATION

Recordkeeping requirements for employers and employees, which surpass anything ever exacted before, became effective on January 1, 1985. This massive and expensive recordkeeping applies not only to automobiles, but also to trucks, vans, planes, and computers. A log must be kept for the use of these items. Every entry in the log must include the time, date, purpose, user's name, place of use and mileage, or length of time used. Without constantly kept records, an employer will lose his deduction *or* the value of the property will be taxed to his employees. This provision, when combined with the new $16,000 limitation on depreciation and the $1,000 limit on the investment tax credit for vehicles, creates costly and unnecessary recordkeeping and compliance costs for business of all sizes.

ACTION NEEDED

Contact your Senators, Representative, and the IRS, and urge relief from these unprecedented burdens. Make it clear American business cannot bear this additional burden of doing business. Explain to them that this paper-generating provision is presently interfering with normal business operations. Tell them you do not object

to fair taxation, but you do object strongly to excessive and unnecessary recordkeeping requirements.

Address Senators: United States Senate, Washington, D.C. 20510.

House Members: House of Representatives, Washington, D.C. 20515.

Letters to the IRS should be directed to Roscoe L. Egger, Jr., Commissioner, Internal Revenue Service, Washington, DC. 20224.

PREPARED STATEMENT OF HON. TOBY ROTH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WISCONSIN

Mr. Chairman, I appreciate the opportunity to be able to testify before you today. On January 21, I introduced H.R. 541, a bill to repeal Section 179(b) of the Tax Reform Act of 1984, which forces taxpayers to keep "adequate contemporaneous records" in order to take ordinary business deductions.

As a former member of the committee, I am delighted that you have acted promptly to bring out into the open all the problems caused by the IRS proposed regulations which require that detailed vehicle logs be kept in order for a farmer or a business person to benefit from the lawful deduction of the expenses incurred by the business use of a car or truck.

These regulations stem from a new paperwork requirement that was imposed by the Tax Reform Act of 1984. Section 179(b) of that Act is an attempt to restrict tax avoidance that is based upon the deduction of vehicle expenses, when such expenses are not truly related to business use.

On October 24 of last year the Internal Revenue Service proposed regulations to enforce this record-keeping requirement. The IRS required the taxpayer to keep excessively detailed vehicle logs in order to receive formerly routine deductions. All of this information must be recorded at or near the time the property was used.

In the past few weeks I have interviewed or heard from a large number of small businesspeople, farmers and sales representatives who have attempted to comply with these new rules. They tell me from firsthand experience that these rules drain their time unnecessarily, time which they could put to productive use. From 200 letters per day from my constituents, I have learned that these new rules are costly. The average businessman may spend from 20 minutes to 2 hours per day filling out new forms. Who will absorb these new additional costs?

I have heard repeatedly from my constituents that businesspeople and farmers do not mind paying their fair share of taxes. But they do strongly object to unjustifiable Federal requirements for thousands of pages of unneeded paperwork. That is why I have introduced legislation which would repeal that provision of the law.

A repeal of this law would not relieve taxpayers of reasonable record-keeping responsibilities. Repeal of this particular section means that taxpayers would be required to maintain "adequate" records or "sufficient corroborating evidence" to document claimed deductions, just as they did before.

In an attempt to reduce the deficit, Congress has sought various ways to enforce stricter compliance with tax laws. The law however, can go too far. The requirement for compliance can become too burdensome and, eventually, counterproductive. The IRS has taken this Congressional mandate and through its regulation has created a burden.

I do not want to perpetuate a tax loophole or promote tax evasion. I simply feel that Congress must protect taxpayers from an unreasonable requirement to keep excruciatingly detailed logs of mileage, times, dates, and purpose of travel.

It is unfair to burden with unnecessary paperwork businesspeople and farmers and other taxpayers who routinely use vehicles for business purposes. It is unfair to turn productive businesspeople into unproductive bookkeepers for the IRS. It is unfair for them to spend even more time coping with government red tape. Companies that faithfully follow these regulations have no time to do anything else. This country cannot afford these types of senseless regulations.

The IRS has recently agreed to exempt some people from keeping these extremely detailed records, however, this is only a partial victory. Many business people are still burdened by excessive regulations. I believe that rather than go back and clarify our intent so there is no chance the IRS will misunderstand it, a task which is probably impossible, we would be better off restoring the previous law.

Again, Mr. Chairman, I appreciate your interest in the well-being of the backbone of our economy, the small businessman.

PREPARED STATEMENT OF HON. G. WILLIAM WHITEHURST, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF VIRGINIA

Mr Chairman, Members of the Committee, I want to thank you for this opportunity to come before you and speak on a subject that has stirred our constituents and filled our mail boxes. The root of this discontent is the ruling last year mandating that those who use automobiles for business purposes must keep extensive records in order to receive a tax deduction.

I agree with the intent of the ruling, but I believe the burden placed on the millions of citizens who use their cars for business is excessive. Since "The Tax Reform Act of 1984" became law, I have received dozens and dozens of letters from constituents who agree with the intent of the bill, but who are angry because they are forced to become bookkeepers who must detail their every motion.

As one constitutent wrote: "The recordkeeping requirements for employers and employees to conform to these rules are massive and expensive. They are very time consuming in terms of training and forcing compliance by employees. Then, in the long run, IRS could rule the records were not constantly kept and arbitrarily cause the business to lose its deduction . . ."

I believe this letter sums up the fears of many of those we have heard from. The design of this legislation was to tighten up loop-holes, not to strangle the business community. There have been abuses of the previous law, and everything should be done to punish this practice. It is not prudent, however, to punish everyone for the sake of a few. I think a modification in the 1984 law that would strike the requirement for "contemporaneous" recordkeeping and replacing it with "adequate records or . . . sufficient evidence corroborating his own statement" is in order.

I would urge the Committee to make the necessary revisions to lift this unintended burden off of American's business community. Thank you.

Appendix B.—Prepared Statements Received After the Hearing

Prepared Statement of Jack S. Opinsky, D.D.S., Chairman, Council on Legislation, American Dental Association

The American Dental Association appreciates this opportunity to present its views on H.R. 600, H.R. 531 and the numerous other bills, with over 250 congressional sponsors, to repeal or to modify recent Internal Revenue Service regulations that mandate "contemporaneous recordkeeping" of the business and personal use of automobiles and certain other types of property and activities.

We commend you for conducting these hearings, which actually should have been held last year before this provision was enacted into law, in order to gather information on the need for escalating present compliance standards on the deductibility of such expenses versus the additional administrative and recordkeeping burden placed on individuals and small business taxpayers.

There are many dentists engaged substantially in hospital practice or with more than one office who undoubtedly will be affected in an adverse manner by this unnecessary and burdensome "contemporaneous recordkeeping" regulation on the business and personal use of automobiles and certain other listed property and activities, including travel, entertainment and recreation.

Even though this proposal was recently modified by the IRS, its has not materially changed the onerousness of the regulation. We would therefore recommend that the proposed regulation be repealed immediately, and that the original standard of compliance of Section 274(d) of the Code on recordkeeping substantiation of such expenses be restored until additional congressional hearings can be held to study and to evaluate this measure.

This prior standard of substantiation would seem to be adequate to distinguish between taxpayers' personal and business use of automobiles and certain other property. While not requiring daily logs and additional paperwork as set forth by the newly proposed regulation, it would require "adequate records or sufficient evidence" such as customers serviced or records of patients visited. It seems to our Association that these standards are sufficient for the IRS to evaluate business and personal use of automobiles and other property.

In conclusion, on behalf of the Association, it is respectfully urged that you and your colleagues adopt H.R. 600, H.R. 531 or other similar legislation. We look forward to working with you and your colleagues to develop a reasonable and workable alternative to this burdensome and unnecessary IRS regulation.

Prepared Statement of the American Farm Bureau Federation

The American Farm Bureau Federation is the nation's largest agricultural organization with a membership exceeding three million member families in 48 states and Puerto Rico. Farm Bureau represents the interests of farmers and ranchers who produce virtually every type of commodity grown on a commercial basis in this country.

Farm and ranch vehicles are an important part of farming and are used daily to transport farm labor, supplies, livestock, and commodities. Because of the importance of farm vehicles to agriculture, we continue to be concerned about proposed and temporary regulations originally published in the Federal Register on October 24, 1984, and modified on February 20, 1985, that expand recordkeeping requirements to substantiate deductions and credits for business use of automobiles or "listed property". Although the Internal Revenue Service has now modified the regulations to provide "safe harbors" for certain types of vehicles use, we continue to support repeal of contemporaneous recordkeeping requirements, which are unduly burdensome and potentially unenforceable. The behavior of the federal government has made taxpayers weary and causes us to wonder where the next assault on taxpayers will come. This is true particularly since there is a major tax bill at least every other year followed by a technical corrections act and regulations that compound the uncertainty of tax law.

In January, voting delegates at the American Farm Bureau Federation's annual meeting opposed the "mileage log" requirements of the new tax law. While the intent of this particular portion of the Deficit Reduction Act of 1984 may be appropriate to prevent abuse of the investment credit and accelerated depreciation for so-called luxury vehicles, the recordkeeping requirements are inappropriate and increase regulatory burdens at a time when the Administration is pledged to regulatory reform.

We are certain the Internal Revenue Service has received a number of comments that raise fact situations never anticipated when the regulations were drafted. These fact situations, whether they involve farmers, small business owners or independent contractors, illustrate the point that prior law, which require adequate but not contemporaneous recordkeeping, is preferable to the new law.

Even with modification to include the 80/20 and 70/30 percentage allocation of business/personal use without contemporaneous records or the recordkeeping of only personal use, problems continue to exist. For example, given the fluctuation of gross farm receipts due in part to sporadic markets, it is possible that a farmer who might qualify for one of the two alternatives under the 70 percent gross income test might be disqualified in a succeeding year. This is true particularly when a spouse earns off-farm income. For instance, assume a situation in which the farmer has gross receipts of $70,000 and the spouse has earned income of $30,000 (not passive investment income) for a total of $100,000 gross income. If gross farm receipts drop to $60,000 the following year, the percentage of the farmer's gross income falls to 67 percent and the status of the recordkeeping requirement is thrown into confusion. What happens? Must the farmer, if he plans to receive the benefit of the investment credit or ACRS, revert to contemporaneous recordkeeping with all the attendant problems that have already been adequately presented to the Subcommittee? Must the recordkeeping method change because arbitrary percentage requirements have not been met although the type and extent of use have not changed? In addition, a farmer who claims a business/personal mix of 90/10 percent and chooses to record personal use can expect the Internal Revenue Service to challenge vigorously the personal use records. Farm employees who drive vehicles home can expect to have the commuting value of the vehicle imputed to them as a taxable fringe benefit for which the employer may withhold taxes. This only adds to the recordkeeping burdens for the farming operation. These are important unanswered questions and situations. We believe that sufficient answers rest in repeal.

Farm Bureau supports legislation in Congress to repeal completely the contemporaneous recordkeeping requirements. Constituent response to the issue has helped generate a significant number of cosponsors on repeal legislation such as H.R. 531 (Anthony, D-AR), H.R. 600 (Roemer, D-LA), S. 260 (Heinz, R-PA and Pryor, D-AR), and S. 245 (Abdnor R-SD). We encourage the House Ways and Means Committee and the Senate Finance Committee to give serious consideration to these bills because repeal is the only acceptable remedy to these regulatory problems.

Prepared Statement of American Public Power Association

The American Public Power Association ("APPA") submits the following statement on the issue of taxation of employer-owned vehicles provided to public employees who perform critical services during non-business hours. APPA is the national service organization representing more than 1,750 local publicly owned electric utilities nationwide.

Pursuant to the Tax Reform Act of 1984, the Internal Revenue Service (IRS) has recently issued regulations requiring public and private employees, who take employer-provided vehicles home to do work during non-business hours, to include a portion of the lease value of those vehicles as income in calculating their federal income tax obligation.

Although APPA has not yet formally adopted a position on this issue, many general managers of municipally owned utilities have expressed their strong opposition to this provision in the Act and its implementation by the IRS. A sample of their comments is attached to this statement.

Municipal utility employees are provided with government-owned vehicles during non-business hours so they may maintain and repair facilities used in the provision of essential public services, including electricity, water, gas and sewage treatment. A prompt response is requested, for example, to restore service to hospitals or residences, or remove dangerous objects such as fallen power lines. In many instances, police, fire and ambulance crews must await the arrival of utility crews before they

can perform their functions. Without immediate access to utility vehicles, the delays could cause serious harm to the public safety and welfare.

In addition, if the value of these vehicles remains taxable income, it will impose an onerous and unjust burden on municipal utility employees. These employees are already inconvenienced by having to be "on call" 24 hours a day, 7 days a week. Their salaries and benefits only partially compensate them for this inconvenience. They also derive no significant personal benefit from these vehicles. Nevertheless, the IRS regulations will require them to keep detailed unnecessary records of their vehicle use and, worse, tax them for their value.

For these reasons, the American Public Power Association urges Members of Congress either to approve legislation such as H.R. 600, the "Taxpayer Relief Act of 1985," or, at a minimum, exempt public employees who use employer-provided vehicles to perform essential public services from having to include the value of these vehicles in calculating their federal income tax obligation.

TENNESSEE VALLEY PUBLIC
POWER ASSOCIATION,
Chattanooga, TN, January 31, 1985.

Re Proposed and Temporary Internal Revenue Service Regulations On Taxation of Fringe Benefits, Filed January 2, 1985.

Attention: CC:LR:T (LR-216-84),
Commissioner of Internal Revenue,
Washington, DC.

DEAR COMMISSIONER: The Tennessee Valley Public Power Association ("TVPPA") is an association representing the interests of 160 rural electric cooperatives and municipally-owned electric utilities which distribute power in the Tennessee Valley region to more than seven million citizens.

We are submitting the following comments in connection with the Temporary Regulations, (LR-216-84), T.D. 8004, issued by the Internal Revenue Service on the taxation of fringe benefits. These comments deal specifically with provisions of the temporary regulations regarding employer-provided automobiles.

The member utilities represented by TVPPA are without exception organized as nonprofit entities, either exempt from taxation under Internal Revenue Code Section 501(c)(12) or non-taxable as a unit of local government, to provide electric power to their communities at the lowest possible cost. As nonprofit and non-taxable entities, the member utilities have no economic need for and cannot use the investment tax credits or depreciation associated with items such as employer-provided automobiles. Utility provided vehicles are available to employees of the utilities only to assist them in the quick and efficient performance of their duties in responding to emergency situations and to reduce cost for the utilities.

The temporary regulations issued regarding employer-provided automobiles are not only economically burdensome for the utilities in terms of record keeping, but expensive to the ratepayers being served by the utilities. Many of the vehicles used by the utility employees are service vehicles of varying natures which are used to respond to power outages and make emergency repairs. Employees are required to take these vehicles home so that the utility may respond to a critical situation in a minimum of time. Storing the vehicles at a central location is not practical or economically feasible for many member utilities of TVPPA since such utilities service expansive rural areas. Utilities reduce costs by not having to store these vehicles in a central location as well as reduce the incidents of vandalism to such vehicles. In the rural areas, the utility employee responding to an emergency situation is often at least thirty minutes away from the utility headquarters. Storage of these vehicles at a central location would require an employee to make a trip from his home to the utility headquarters to pick up the vehicle and then proceed to the site of the emergency, increasing response time to power outages in emergency situations by at least an hour, most probably more. Hospitals are an example of an institution that depends on utilities to restore power as quickly as possible, particularly in rural areas where one hospital may service many communities. Also, in times of extreme cold, electric power needs to be restored as quickly as possible since it is the primary heat source for many families.

Since these utilities do not have the tax advantages of investment tax credits and depreciation associated with the employer-provided vehicles, the extra expense involved in complying with these provisions of the Temporary Regulations is neither reasonable nor justified particularly since such expense must necessarily be passed

directly to the consumer in the form of higher rates. Also, since the utility employees are given no choice in whether they will take such utility vehicles home and since generally such utility-provided vehicles are not suitable for personal use, no real benefit is gained by the utility employee in the use of such vehicles. Consequently, the requirement that the value of such vehicles be included in the gross income of the employees is inequitable and unreasonable. The result is that the employee is taxed on the value of something that he has neither had the benefit of nor has received; and although the employee receives some benefit from commuting in the vehicle, no doubt most employees would prefer to drive their own vehicles rather than be burdened with a utility vehicle.

In order that the utilities represented by the TVPPA can continue to supply reasonably priced and reliable electric power to the consumers in the Tennessee Valley, it is requested that before final regulations on the taxation of fringe benefits are issued, a provision be included exempting utilities owned by state or local government or their boards or agencies and electric cooperatives and their employees from the provisions regarding employer-provided automobiles.

We would appreciate your help in resolving this important and serious problem facing the utilities and electric cooperatives represented by the TVPPA.

Please direct all information, notices and questions on this matter to the undersigned at the above address.

Very truly yours,

JERRY L. CAMPBELL,
Executive Director.

CITY OF PALO ALTO,
Palo Alto, CA, February 1, 1985.

Mr. PAUL FRY,
American Public Power Association,
Washington, DC.

DEAR MR. FRY: In regard to the Public Power Association article of January 21, 1985 regarding taxation of employee provided automobiles, I would make the following comments:

Utilities often require certain employees to drive City vehicles for specific purposes. I refer to standby conditions where after-hours emergency service is provided directly to the emergency site from the employees' home by means of having appropriate vehicles assigned to those people. This is an extra duty and often only partially compensated in terms of salary and benefits and is more often than not an imposition on the employee's time. An attempt to tax their use of the vehicle because of incidental transportation supplied back and forth to the work station could very easily result in their refusing to accept such assignments. This could totally destroy the program resulting in a considerable deterioration in the service level properly provided.

It is understandable that there might be reason to tax privileged use of an employer provided vehicle, but it is obvious to my mind that the direct assignment as part of their work should not bear in this issue. One solution might be to exclude from such provisions vehicles that are exempt licensed. Other than that, the IRS would have to rely on an employer affidavit stipulating that the use of the vehicle was required by job assignment circumstances. We operate four Utilities in Palo Alto and supply emergency service for water, gas, electric, and sewer customers. Obviously, any delay in response, particularly to electrical and gas problems, could be life endangering and I would not want to be responsible for any deterioration in our ability to respond.

Please add our concerns to any comments you may make and inform us of any action that does result. We appreciate your efforts in our behalf.

Sincerely,

RICHARD L. YOUNG,
Utilities Director.

PREPARED STATEMENT OF THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA

AGC is: More than 32,000 firms including 8,400 of America's leading general contracting firms responsible for the employment of 3,400,000-plus employees; 111 Chapters nationwide; More than 80% of America's contract construction of commer-

cial buildings, highways, industrial and municipal-utilities facilities; over $100 billion of construction annually.

The Associated General Contractors of America (AGC) represents more than 32,000 firms, including 8,500 of America's leading general contracting companies which are responsible for the employment of more than 3,400,000 individuals. These member contractors perform more than 80 percent of America's contract construction of commercial buildings, highways, industrial and municipal-utilities facilities. AGC members also perform more than 50 percent of the contract construction done by American firms abroad. We appreciate the opportunity to present testimony on the important topic of contemporaneous record keeping requirements for company vehicles, other items of mixed-use property and related issues.

The new contemporaneous record keeping requirements are a serious problem for all businesses—large and small alike. Taxpayers are in serious jeopardy of losing legitimate business expense deductions because of record keeping requirements which cannot be performed in the real world. Realistic and necessary changes provided by Congress or the Treasury should apply equally to all taxpayers, without regard to the size of the business of the taxpayer and also recognize the unique natures of the multitude of industries adversely impacted by the existing regulations.

AGC has been actively working on this issue at the regulatory level since last July following the enactment of the Tax Reform Act of 1984. The combination of the business needs and the number of employees obliged to use company vehicles in construction make the record keeping responsibilities for construction contractors practically impossible. Contractors and their employees are required to use automobiles, light and heavy trucks, 4-wheel drive vehicles, and vans. These vehicles are used under different circumstances and by different types of employees. For example, pick-up trucks can be assigned to jobsites for general use which is administered by superintendents as job requirements dictate. Pick-up trucks are also assigned to individuals with special needs such as supervisors for visiting jobsites but their actual use is not limited to the supervisors to whom they are assigned.

We have informed our membership of their legal responsibilities and recommended a variety of suggestions to the Treasury and IRS for administering the provisions of the '84 Act in regulations. Unfortunately the first set of proposed rules issued last October imposed the harshest requirements conceivable under the Act. AGC was pleased to review the IRS announcement of January 25th on changes to the rules which are expected to be published. The announcement is a step in the right direction but it is only that—a step. We are gravely concerned that the pending proposed rules will again ignore our earlier information so frequently conveyed to the Treasury Department and that they will again fall short of the potential relief described in the January 25th press release. It is also evident from the January 25th press release that real industry concerns will not be fully covered in the changes, that additional regulations will be required, and that the construction industry will continue to be needlessly abused.

An example of the possible problems in the new rules concerns the safe harbor exemption from the log requirement for sales and service personnel. The release indicates that the safe harbor is not available for individuals who "customarily spend most of their normal business day in an office or similar setting." Construction supervisors frequently spend a significant portion of a day in on-site trailer offices. If this is deemed to be a similar setting to an office the sales/service exception may be unavailable to construction supervisors even though they may make several jobsite inspection trips requiring a vehicle during the day. Until regulations are published the question remains unanswered. We hope that the regulations will clarify this aspect and clearly reflect the legitimate interests of our industry.

An example of an issue which does not appear to be included in the new rules is a needed clarification of the definition of a luxury automobile. Many construction vehicles are equipped with expensive options which are required in construction such as two way radios, four wheel drive, and heavy duty tires. These vehicles are functionally vital to job requirements and their cost reflects these special needs. The present rules may restrict the tax benefits associated with these vehicles because the cost exceeds the luxury automobile price restriction of $16,000. Again, it is vital that the special and legitimate needs of the construction industry be recognized in the pending regulations. Failure to do so constitutes a further needless abuse of a unique industry by placing construction taxpayers in an untenable position of not knowing whether the IRS understands our industry or is, by obfuscation, trying to lump it in with interests that are completely different.

In addition to the record keeping problems AGC has pointed out to the IRS that certain positions of the Service on personal use are unfair. These issues arise in the determination of what a fringe benefit is. Temporary proposed regulations published

on January 7th partially deal with this subject. These regulations are incomplete and will be added to in the future. AGC has already pointed out that certain IRS interpretations are unreasonable. For example, AGC has pointed out that certain trips which are considered commuting by the IRS should be considered business trips. An employee on call should not be treated as commuting to work when he leaves from home to go to a jobsite. The employee is fulfilling a work requirement by being available while at home. When the employee leaves his home under these circumstances, he is leaving a place where he is performing a part of his job. No benefit is being conferred on the employee when he responds to the call and he should not be subjected to additional taxes. Similar problems result when employers require employees to secure work vehicles in the evening at the employee's residences. Jobsites are extraordinarily difficult to secure as is evidenced by the frequency which even the most casual observer will see equipment such as compressors dangling from cranes. Imagine the economic exposure for contractors who would be obliged to leave expensive vehicles at highway jobsites or at projects in remote areas. That is why, in non-working hours, vehicles must be secured by employees to prevent vandalism or theft.

Similarly, many employers do not have home office facilities for overnight parking. Employees required to secure vehicles at their residences during non-working hours should not be made to pay taxes in performing these conditions of employment, regardless of the case law justification of IRS interpretations.

PREPARED STATEMENT OF RICHARD F. TURNEY, WASHINGTON REPRESENTATIVE, AUTOMOTIVE SERVICE INDUSTRY ASSOCIATION

AUTOMOTIVE SERVICE INDUSTRY ASSOCIATION,
Chicago, IL, February 15, 1985.

Hon. THOMAS LUKEN,
Chairman, House Small Business Subcommittee on Antitrust and Restraint of Trade Activities Affecting Small Business, Rayburn House Office Building, Washington, DC.

DEAR MR. LUKEN: First of all, ASIA wishes to thank you for holding hearings on the onerous IRS regulations regarding recordkeeping requirements for cars used in business.

We have just returned from our annual convention which had an attendance of well over 30,000 small businessmen. By far the question we were asked most was, "what is Congress going to do, if anything, about the new IRS Auto Regulations? At that time we were only able to tell them that a number of bills had been introduced and the subject was certain to be addressed. We commend you on your prompt action.

For your Subcommittee's consideration we enclose ASIA President John Nerlinger's statement on the issue to the IRS on January 2, 1985. We believe it clearly summarizes the problems the aftermarket industry faces with the regulations. Although we have heard the IRS plans to modify the regulations somewhat, from what we have been able to ascertain to date, ASIA still believes the only solution to the problem is to repeal the tax provision on which the regulations are based.

ASIA appreciates this opportunity to submit this material to your Subcommittee and commends you for your continued outstanding leadership on behalf of the small businessman.

We respectfully request that this letter and Mr. Nerlinger's statement to the IRS be made a part of your hearing record.

Sincerely,

RICHARD F. TURNEY.

AUTOMOTIVE SERVICE INDUSTRY ASSOCIATION,
Chicago, IL, January 2, 1985.

Attention: CC:LR:T (LR-145-84).

COMMISSIONER OF INTERNAL REVENUE,
Washington, DC.

DEAR SIR: The Automotive Service Industry Association wishes to submit comments on the "Proposed and Temporary Regulations Limiting Tax Breaks for Luxury Automobiles and Other Property".

The Automotive Service Industry Association (ASIA) is the automotive world's largest and most comprehensive organization. Its membership encompasses more

than 8,500 independent automotive wholesalers, warehouse distributors, heavy-duty parts and equipment distributors, automotive electric service distributors, manufacturers' representatives, manufacturers and remanufacturers of automotive replacement parts, tools, equipment, chemicals, paint, refinishing materials, supplies and accessories.

Many ASIA member companies have management and sales personnel who require and use company cars to carry on their business. In addition, many of these companies need and use light trucks and vans.

The definition of "passenger automobile" contained in the notice of the proposed regulations correctly notes that section 179 of the Tax Reform Act of 1984 provides that certain types of vehicle, including any truck or van so specified "under regulation," are excluded from the definition of "passenger automobile". Comments "as to the types of trucks or vans that could be excluded . . ." were requested. However, the proposed regulations also indicate that "a light-duty truck may be a 'passenger automobile' " if it weighs 6,000 pounds or less.

ASIA strongly recommends that the final regulations exclude light duty trucks, most vans, and other utilitarian vehicles consistent with the legislative history and intent of section 179. Congress intended Section 179 to correct a perceived abuse of the tax system i.e., taxpayers subsidizing the purchase of "luxury" cars through the tax code. Clearly, few light trucks, vans or other utility vehicles fall within the definition of "luxury" cars.

Imposing these regulations on such vehicles is an extremely harsh, impractical and unnecessary compliance burden for affected businesses and has little to do with the intent of the law.

For example, many light duty trucks and vans bear a company logo and are used or errands, deliveries and other similar uses. Other businesses keep "back-up" vehicles for use in deliveries, emergencies, overload situation, etc. In both cases, the vehicles are purchased and used because of characteristics which have nothing to do with the abuse which section 179 was intented to correct. On these grounds alone they should be exempted from the scope of the regulation.

The burden of requiring businesses to keep a contemporaneous log for each such vehicle in its fleet—each of which is likely to make multiple stops in a single day—is unreasonably cumbersome for both the driver and the bookkeeper. Substantiation of the use of these vehicles often exists in forms such as dispatching orders and billings.

Requiring additional logs is unproductive and time consuming and in many cases duplicative. ASIA suggests that the IRS consider all appropriate suggestions to ease the substantiation requirements and make them more practicable from a sound business practice perspective; that is, permit recordkeeping from which business use of an automobile can be discerned without necessitating duplicative recordkeeping.

ASIA realizes that the IRS was given the task of implementing what we feel is "bad law", but even accounting for the over-broad and ill-considered nature of section 179, the proposed regulations are needlessly far-reaching, complex, and vague. They fail to provide guidance on any number of critical compliance matters and raise and leave open far more questions that they answer.

While it seems reasonable that Congress should not pass laws for which it cannot adequately define compliance, in this case it appears they cannot define compliance with the law in practical terms. ASIA thus proposes that the IRS would do itself, Congress, and taxpayers at great public service by recognizing the impractical and burdensome nature of the proposed and temporary regulations and the problems which they will cause. We feel the IRS should redraft regulations which are understandable, practical in the "real world", every day business sense, and which provide legitimate guidance to the taxpayer.

Specifically we suggest that Section 1.280F-6T(c)(3) be modified to provide a further exception for light-duty trucks, vans and utility vehicles. We would be happy to answer any questions in this area, please feel free to contact Mr. Louis Marchese at (312) 782-1829.

The Automotive Service Industry Association appreciates the opportunity to comment on this issue and hopes you will consider our views when issuing final regulations.

Respectfully submitted,

JOHN W. NERLINGER.

PREPARED STATEMENT OF THE NATIONAL ASSOCIATION OF HOME BUILDERS

Mr. Chairman and Members of the Subcommittee: The National Association of Home Builders (NAHB), with a membership exceeding 129,000, is a trade association of the homebuilding industry. NAHB represents our nation's largest small business industry. Fifty-two percent of our members build fewer than ten housing units per year and seventy-one percent of our members build fewer than twenty-five units per year.

NAHB is very concerned with the contemporaneous recordkeeping requirements of the Tax Reform Act of 1984. Those requirements, coupled with the Treasury Regulations implementing those requirements, have created an administrative burden, which is costly and detracts from productive activity. Therefore, NAHB supports legislation introduced by Messrs. Anthony and Roemer for repeal of the 1984 Act provisions and a return to prior law.

In general, the 1984 Act requires taxpayers to substantiate by adequate contemporaneous records any tax credit or deduction with respect to the business use of automobiles. No credit or deduction is allowed in the absence of such records. Specifically, taxpayers must keep contemporaneous logs recording the date of the trip and the mileage driven for business purposes.

The 1984 Act also requires tax return preparers to advise taxpayers of the contemporaneous recordkeeping requirements and to obtain written confirmation from the taxpayer certifying that adequate contemporaneous records exist. The return preparer is subject to a penalty if he or she does not obtain such written certification.

Under the law prior to the 1984 Act, taxpayers were required to substantiate any deductions for travel expenses by adequate records or other evidence corroborating their own statements. These records, which did not have to be contemporaneous, were required to show the amount, time, place, and business purpose of the expense.

Temporary Treasury Regulations, implementing the recordkeeping requirements, were published on October 24, 1984. In part, these regulations require taxpayers to maintain logs or diaries for the purpose of detailing the business use of automobiles. Specifically, the following information must be logged:

(1) The name of the user of the vehicle;

(2) The purpose of the use;

(3) The date of use of the property; and

(4) The number of miles and/or the amount of time the property was used.

What these regulations mean to our industry, and to small business in general, is an inordinate amount of paperwork. Essentially, it means that time that could be going into productive activities will have to be channeled into more paperwork.

While we do not yet have hard data concerning the additional costs that have been imposed upon our industry as a result of the auto recordkeeping requirements, the following excerpt from a letter we received from a home builder is illustrative of the types of problems of which we are aware:

"Since all pickup trucks are included, we find that we must keep a log record for four autos, eight pickups, and two vans. We estimate that it will take a person at least one full hour of time per week to record off and on trips for his job. Assuming an average man being paid $10.00 per hour (some do receive more), this will mean that our costs will rise $140 per week or $606.00 per month (4½ weeks in a month) which totals $7,272,00 additional costs per year for this extra record keeping.

To illustrate the problem, further, assume the case of a builder who has several projects underway at one time (or who has several houses under construction with one project). Each time the builder gets in an auto to go from one site to another, he must log in the use of the auto. In addition, take the case of all the individuals allied with the building trades, for example, flooring and lighting contractors, or architects. Each time these people use their autos to go from one site to another, which often may be several times a day, they must take the time to log in their automobile use. We feel that these people can use their time more valuably in a capacity other than as policemen for the IRS.

Another situation that concerns us is the case where a builder, for security reasons, has an employee drive his truck home at night. That employee is deemed to have commuting income, even though the only reason he took the truck home was for a valid security purpose.

Finally, we wonder what purpose all of these automobile logs ultimately will serve. If all individual and businesses were audited, it might make sense to require such recordkeeping. However, in a world in which fewer than 5 percent of taxpayers are audited in any given year, we wonder how the IRS is going to make use of all this information. Does it make sense to tell people that they are going to have to

keep logs, and store these logs for the statutory period of limitations (generally, three years), when it is highly unlikely that the IRS will ever make use of that information?

Apparently, the Treasury and IRS were concerned that taxpayers were cheating when they deducted expenses connected with the business use of autos. We have not seen any hard data concerning the number of tax cheaters, but even assuming it is as high as 10 percent, would it make sense to burden the large majority of honest taxpayers to catch the small minority who cheat? Rather than enhancing compliance, overly burdensome recordkeeping requirements could cause otherwise honest taxpayers to drop out of the system.

We at NAHB believe our tax system has survived so well over the years primarily because it has been grounded on the concept of voluntary, self-assessment. Why should we now turn our backs on a system that has stood the test of time?

In conclusion, the National Association of Home Builders urges that Congress act promptly to repeal the contemporaneous recordkeeping requirements of the 1984 Tax Act. We appreciate the opportunity to submit our views and applaud the efforts of the Small Business Committee.

PREPARED STATEMENT OF DAN HALL, EXECUTIVE DIRECTOR, NATIONAL POTATO COUNCIL

The National Potato Council (NPC) vigorously opposes the United States Treasury's attempt to require "contemporaneous recordkeeping" for trucks, vans, pickups and other vehicles.

For the record, the National Potato Council is a national, nonprofit trade association representing all U.S. potato growers in legislative and regulatory issues. The National Potato Council consists of members from 37 potato-producing states and further represents the views of almost 12,000 U.S. potato growers or potato-producing firms.

At the NPC annual meeting in January 1985, the following resolution was adopted.

Whereas, Section 274 of the Internal Revenue Code, effective January 1, 1985, requires extensive recordkeeping in the form of a logbook for each vehicle that depreciation or investment credit is claimed; and

Whereas, this log is to be kept on a daily basis including starting mileage, destination, purpose of trip, ending mileage and other information to confirm the business nature of each individual trip; and

Whereas, those engaged in farming will be required to keep the above-mentioned logbooks on all pickups or other vehicles under 6,000 lbs. GVW; and

Whereas, the number of trips made daily and varied personnel using the vehicles make this requirement not only difficult, but also impossible to comply with accurately, to the extent that this requirement is almost a form of harassment to claim a rightful deduction for a legitimate business expense;

Therefore, be it resolved, that the National Potato Council through its officers and committees, solicit the cooperation and assistance of other commodity and farm organizations, along with Members of Congress, to work through whatever means necessary to modify Section 274 of the present regulations of the Internal Revenue Code to specifically exclude the logkeeping requirement for all vehicles used in the business of agriculture. Further, that an emergency exists in that many farmers are unaware of this requirement and that legitimate deductions may be lost and further much confusion and lost time will occur, that this resolution take priority in the matters of the National Potato Council and that actions be taken immediately to stop this unwarranted intrusion into our private business affairs.

The National Potato Council lends its support to legislative efforts that would return the regulations to their status prior to January 1, 1985. Since indications from the IRS lead us to believe their rewritten proposed regulations will not prove satisfactory to our industry, we support legislative relief from the proposed regulations. We understand several bills have been introduced in the Congress that would accomplish the goal of returning the regulations to their prior status.

In conclusion, the National Potato Council strongly urges the Congress to act quickly on this matter of great importance to the potato industry, other commodity and farm organizations, and small businesses throughout the country.

PREPARED STATEMENT OF PHILIP P. FRIEDLANDER, JR., EXECUTIVE VICE PRESIDENT, NATIONAL TIRE DEALERS AND RETREADERS ASSOCIATION

My name is Philip P. Friedlander, Jr., Executive Vice President of the National Tire Dealers and Retreaders Association. NTDRA is a national nonprofit trade association representing approximately 5,200 independent tire dealers and retreaders located in all fifty states. NTDRA's members are engaged in the wholesale and retail distribution of automobile and truck tires, the retreading of tires and the sale of related products and services.

Mr. Chairman on behalf of NTDRA's membership, we would like to commend you for holding this hearing on the contemporaneous recordkeeping requirements of Section 179(b) of the Tax Reform Act of 1984. This hearing will help to focus Congressional attention on the burden which this provision imposes on American business, particularly small business. Hopefully as a result of this hearing a majority in the Congress will come to share our belief that Section 179(b) must be repealed.

NTDRA's members can understand Congress' desire to discourage the abusive practice whereby a small minority of businesses purchase luxury automobiles, use them primarily for nonbusiness purposes and then claim investment tax credits for that purpose, as well as, accelerated depreciation. NTDRA's members can even understand Congress' desire in the face of mounting deficits to tighten recordkeeping requirements as a revenue enhancement measure short of raising taxes. But what NTDRA's members cannot understand is how the Congress could adopt a minor change to the tax code which raises an insignificant amount of revenue by Treasury's own estimates while imposing a crushing paper work burden on most small businesses in this country. Conservative estimates place the cost to business in terms of lost productive man hours in the billions of dollars annually, assuming full compliance with the regulations.

We know of no single provision in the tax code which imposes such a heavy burden on tire dealers and other small business. The needed paper work relief that small businesses have gained in the last four years pales in comparison to the new burden imposed as of January 1 of this year.

This burden is so oppressive that it will not halt abuse but rather encourage it. Rather than enhance compliance, these provisions will encourage business taxpayers to fabricate records, not for the purpose of avoiding payment of taxes but, to lessen the man hours of work associated with compliance with contemporaneous recordkeeping.

NTDRA's members often have several business vehicles, usually service trucks. On occasion for business convenience, it may be desirable for an employee to take a service truck home at night because the first service call the following day is closer to the employee's home than to his place of employment. By taking the service truck home, time and money are saved, profitability is enhanced.

Regretfully, the regulations which the IRS issued on October 24, 1984 implementing section 179(b) attack the very profitability that small business men and women so fervently seek, and all too often fail to achieve.

Under the IRS's regulations, skilled service personnel at our members' dealership will spend perhaps a quarter of an hour a day filling out logs detailing the date the vehicle was in use, the identity of the user, the odometer mileage, the destination and the purpose of the trip. That amounts to a week and a half of lost productivity per employee per year. That of course does not include the lost productive hours of the company's bookkeeper who now has to tabulate these logs on a daily, weekly, monthly, quarterly and yearly basis.

For smaller tire dealerships we are talking about hundreds of man hours of lost productivity per year and thousands of dollars. For larger tire dealerships we may be talking about thousands of man hours lost and perhaps tens of thousands of dollars lost. Multiply by the total number of affected businesses in this country and it is not difficult to see that the estimates of $7 billion to $10 billion in business costs, assuming full compliance, may well be conservative.

The logistics required to maintain these records in order to satisfy the IRS bureaucrats is mindboggling. If a vehicle is used by several different employees, do all the drivers use the same log for the same vehicle or do they use personal logs? If a driver is derelict and fails to log a trip contemporaneously, is it legal to go back the following day or week and fill in the missing trip on the log?

What if a driver, in a hurry to service a customer, fails to log a trip and leaves an obvious gap in his records that are then overlooked by the bookkeeper. If the IRS audits the business, is the owner automatically subject to a penalty for negligence under section 179(c) as the regulations imply?

These regulations will impact most business taxpayers in this country. Section 179(b) and the accompanying regulations will create unnecessary friction between employers and their employees. They will require a complicated new bookkeeping system, encourage fraudulent recordkeeping, engender taxpayer disrespect for our voluntary compliance system, lower employee and overall company productivity and adversely impact a company's profitability. And for what purpose? To collect a hundred million more dollars and stop the abuses of a few. Surely the incredibly complicated reporting system designed to achieve these relative insignificant goals most go down as one of the classic cases of trying to kill the proverbial offending gnat with the proverbial elephant gun.

It is important to point out that the IRS, despite its reputation for regulatory overkill, has essentially drafted regulations which, it can be argued, coincide with the intent of those who crafted the language "adequate contemporaneous" records in the law. It should also be pointed out that the language was included in the law without so much as a minute of hearings by any committee of the Congress. Members of the House justifiably maintain that it was not in their version of the bill but, that it was Senate language which was adopted by the conference on the tax bill. Those few in the House who may have known of the existence of the offending language chose to support the conference report on the Deficit Reduction Act, rather than oppose the bill on this one small provision. But, what a provision it proved to be.

That provision has spawned a virtual taxpayer's revolt. Members of Congress have been inundated with letters from justifiably enraged constituents. Listening to the anger of NTDRA's members, I am reminded of Jefferson's indignation when he wrote in the Declaration, "He . . . has sent hither swarms of officers to harass our people and eat out their substance."

As a result of that mail and this hearing, members of Congress should now be aware to the mischief they have inadvertently wrought. Many members of Congress have urged the Secretary of the Treasury and the IRS to provide relief and the IRS has indicated that they are revising the regulations. But, it is the language of the law that spawned these regulations. Moreover, the relief outlined in general, in the IRS's press release of January 25, is clearly inadequate and inequitable. The previous abuser, whose conduct initiated the law, and who in fact uses his car for business purposes only half the time, may now claim 70% business use without contemporaneous records. The owner of a service truck which is honestly used 98% for business, can only claim 80% business use unless costly and burdensome contemporaneous records are maintained. Moreover, detailed contemporaneous records would still have to be maintained for figuring imputed income.

No, adjusting regulations is not the relief needed nor the relief sought. NTDRA urges the Congress to act swiftly to repeal section 179(b). Indeed there are several bills introduced in both chambers which would provide significant degrees of relief, examples include: S. 260, HR. 600 and HR. 531. It is incumbent on the Congress to move swiftly to implement an effective legislative remedy. It is essential that Congress clarify the confusion that presently exists. The IRS press release of January 25th has left many taxpayers in limbo wondering whether they should continue to maintain adequate contemporaneous records while waiting for the latest pronouncement from the oracles at Treasury, a pronouncement that may or may not be delivered.

In summary, NTDRA is grateful to you Mr. Chairman and your subcommittee for bringing the light of public attention to bear on this ill conceived law. It is a law which by its very nature is an unwarranted aggravation to business taxpayers. It is difficult if not nearly impossible with which to comply. Worst of all it is extremely costly and costly in a disproportionate degree to our nations smaller businesses, such as the independent retailers and retreaders of tires who comprise NTDRA's membership. Hopefully your leadership in publicizing the severity of the problems associated with contemporaneous recordkeeping will spur the committees of jurisdiction in both chambers to effect repeal in a forthright and expeditious manner.

PREPARED STATEMENT OF ROD WALSH, PRESIDENT, NORTH AMERICAN ASSOCIATION OF INVENTORY SERVICES

Attention: Ms. Jody Wharton.
Subject: Contemporaneous Automobile Logs.

DEAR MS. WHARTON: The Board of Directors of the Association, at its March 2nd, 1985 meeting, has gone on record supporting H.R. 600. We request that position and

the material presented in this letter to become a part of the Official Record of the Committee.

Commercial inventory services are engaged by other firms and various government agencies to count stock on hand and plant and equipment. The data gathered is collated into various reports, as required by the customer. To count the property of customers requires trained employees to go to the customer's site for 100% of the jobs. Most inventory services have a fleet of company owned or leased vehicles for the purpose of transporting employees to these various sites. Generally, drivers are not assigned to specific vehicles. The same vehicle, in many cases passenger vans, may be used on three or four (or even more) distinct jobs in a day. These distinct jobs may each have a different driver of the same vehicle.

There are approximately 300 companies engaged in the inventory service business in the United States. Of these, 50 are members of subscribers to NAAIS. The overwhelming majority of such businesses are family owned and operated and most generate much less than $1,000,000 per year in gross revenues. Indeed, most have revenues below $500,000. The typical owner operator is not a 40 hour a week executive but rather a person already working 60–80 hours per week. The requirements for contemporaneous automobile logs have placed an added time and cost burden on these people that is all out of proportion to the benefit derived by the Treasury. Our members report a cost (for log audit) varying from $3.05 per week per vehicle up to $25.00 per week per vehicle, with the smaller companies experiencing the greater per vehicle cost. The larger companies have a clerk audit the logs and other work to ensure accuracy and compliance. In the smaller companies the time burden falls to the owner. With an estimated industry wide fleet of 1440 vehicles the record keeping has added between $228,384 and $1,872,000 in cost to a very tiny industry. In terms of time the members report between 36 minutes and 2 hours per week per vehicle to audit the logs and other associated work. This represents a yearly loss in productive time of from 44,928 hours up to 149,760 hours. And, the dollars and time cited do not include the time and payroll cost involved with making each initial log entry. The log entries themselves can be time consuming because with so many different drivers each trip must be logged. It is not practical to make one daily entry if accuracy is to be maintained.

Allow me to give you an example of why the weekly audit of logs consumes so much time. The great majority of drivers are part-time employees with high employee turnover, expecting them to make each and every required entry isn't realistic. So, during audit an entry may be missing, which requires the owner, or a paid employee, to research the missing entry and to make needed corrections. To let stand a missing entry would require the employer to treat that missing mileage as personal use thus depriving him or her of a legitimate business deduction.

N.A.A.I.S. finds the requirements of "contemporaneous" automobile logs to be an expensive, time consuming and wholly unnecessary effort and we urge passage of H.R. 600.

P.S. Should you need witnesses from our industry, they are available.

Prepared Statement of the Sheet Metal and Air Conditioning Contractors' National Association

Mr. Chairman, members of the House Small Business Subcommittee on Tax, Access to Equity Capital and Business Opportunities, the Sheet Metal and Air Conditioning Contractors' National Association (SMACNA) appreciates this opportunity to present testimony on an issue of vital importance to the construction industry, indeed, all small business. SMACNA represents 2,500 construction contracting corporations nationwide, concentrating on commercial and industrial construction projects. While SMACNA consists of both large and small companies, both of which will be harmed by the impractical IRS temporary proposed regulations, a majority of our members are small businesses with a great concern for the problems of overregulation, excessive paperwork and other threats to improved productivity. Overwhelming opposition amongst our members to the Internal Revenue Service vehicle regulations can be found in all corners of the nation in businesses of every size. Therefore, SMACNA urges continued Congressional support to repeal section 1–19 (b) and (c) of the 1984 Tax Reform Act.

BACKGROUND

On October 29, 1984, the Department of the Treasury and the IRS issued proposed and temporary regulations defining recordkeeping requirements for business vehicle

use, to implement certain provisions of the Tax Reform Act of 1984. The scope of the regulations encompassed automobiles, trucks, vans and specific investment tax credit treatment for each based upon the use by the owner/operator. Specifically, Congress enacted language in the 1984 Act, under section 274(d), requiring taxpayers to justify travel and entertainment expenditures through adequate, contemporaneous recordkeeping.

On January 1st, the requirements of the temporary IRS regulations took effect describing the necessary documentation the taxpayer must be prepared to provide the IRS to qualify business vehicles for tax purposes. These regulations require a small business to maintain a log or diary detailing business use of all vehicles in its possession designated as business vehicles. Briefly, the following information is to be entered into the log at the time of vehicle use: (1) date; (2) name of the user; (3) number of miles or amount of time vehicle in use; and (4) exact purpose.

While this requirement may seem satisfactory and workable to those whose business is thinking up regulations, in the real world of construction, and especially for small business construction firms, the log requirement is unfair burdensome and grossly impractical. In fact, it becomes such a barrier to compliance with the law that, if implemented, these businesses undoubtedly will end up losing substantial legitimate deductions through the sheer impossibility of compliance under these unduly restrictive regulations. Given the extremely low level of profitability in our industry, generally, in the last few years, it is probable that the difficulty in complying with these rules could result in a major increase in contractor business failures. 1984, without these burdensome regulations, was a record year for construction industry business failures according to Dun and Bradstreet Corporation. Further red tape is the least important "favor" IRS can do for small business.

With limited office resources, small business contractors already are overburdened by regulatory paperwork requirements in regard to wage and tax records, safety regulations, pension law, affirmative action rules, preferential procurement quotas and a host of other totally unproductive federally mandated reporting chores.

COST OF COMPLIANCE

Small businesses, generally, are least able to understand these new requirements and to afford the costs of the added recordkeeping. Furthermore, these paper-generating provisions are interrupting normal business operations and are unlikely to result in an appreciable increase in tax revenues. We join others in the business community that question Treasury estimates of $105 million in increased revenues in fiscal year 1985, as it is already illegal to deduct expenses for the personal use of such items as automobiles and computers. In addition, this revenue estimate must be balanced with what it will cost businesses to comply with these requirements. A conservative estimate by the National Society of Public Accountants of $500 a year for each of this nation's 14 million small businesses, would indicate a cost of close to $7 billion a year for this segment of the business community alone. An even more conservative estimate of $100 a year for each of the country's small businesses would indicate a cost of $1.4 billion a year—still far in excess of the Treasury's estimates of increased revenues.

CONSTRUCTION VEHICLES

The vehicles utilized by the sheet metal and air conditioning contractors are service vehicles, outfitted for construction. Often these vehicles are specifically designed for particular types or aspects of the construction process and have customized designs, including tool compartments and mechanical attachments. They are obviously not outfitted for recreational or family use of casual personal errands.

Also objectionable to the construction industry is the IRS requirement that service vehicles be parked on company property after-hours. A serious problem arises when contractors offer maintenance or emergency service 24-hours a day. This demands that the contractors' employees have constant access to fully equipped company vehicles. To comply with the IRS requirement employees would either travel back to the business office for appropriate equipment prior to driving to the emergency site or be charged for personal use as the result of taking the vehicle home with them. The other alternative is the termination of all heating, ventilating and air conditioning emergency service. Clearly, none of the above options is as practical or cost-effective as the current method of allowing emergency service employees to take vehicles home with them. To penalize the contractor because his business requires providing on-call, cost-effective emergency service makes little sense. Further,

to characterize this type of business service as commuting or tax evasion, as the IRS has, is without basis.

Beyond the unfairness of the proposal to small business construction contractors, Congress should examine its flawed logic concerning vehicle and equipment security. In most cases business employers require employees to take vehicles home to safeguard the vehicle and the highly valuable contents. The alternative is to park the vehicles and expensive cargo in lots where vandalism is the rule rather than the exception. To require employers to purchase new parking facilities, hire security personnel, and substantially increase insurance coverage to correct an abuse that doesn't exist is impossible to justify. While there was no paperwork reduction or regulatory flexibility analysis done on the regulations, it appears that even a common sense analysis was ignored.

THE IMPACT OF IMPRACTICAL REGULATIONS

Excerpts from letters written by contractors should illustrate the unrealistic nature of these regulations. One of our contractors wrote in a letter to his Congressman,

"We are still engaged in a business that uses vehicles that in no way could be considered to be personal, by any stretch of the imagination. These vehicles, if kept at our place of business overnight, would be subjected to possibilities of theft and vandalism, not to say anything about the added expense to the consumer, as a result of the individual not being able to be dispatched directly to the job from his home. This is particularly true, in light of the fact that we advertise regularly, that we provide 24 hour emergency service. Naturally, one or more of our people are on-call day and night, and any number of them are subject to "call out" in the middle of the night to take care of emergency situations. This has been particularly true in severe winter conditions, such as we are experiencing right now.

To suggest that our fellows leave their trucks at the place of business, where they may have to drive through severe snow and other icy conditions to get to our shop and then hoping that the vehicle will still start, sending that vehicle and the serviceman to a homeowner, whose pipes are frozen, or whose furnace will not heat any longer, is adding a significant cost to the charges we must make to the consumer. In an era when the consumer already perceives us as being overpriced many times, we feel this additional financial burden is too much to ask."

Another small business contractor wrote the IRS, "The published regulations, by IRS, providing guidance in complying to the Tax Reform Act of 1984, and the Tax Reform itself, as it relates to deductibility of company vehicles, has already imposed a severe and punitive penalty to my company, a small business by any definition. I am a plumbing, heating, air conditioning and sheet metal contractor.

The very nature of our business demands that we have company vans and trucks to conduct our business. Often these trucks and vans, depending on how they are fitted with special lifting devices, etc., exceed the limits imposed by the Act. By no means could these vehicles be used personally by anyone in our business. One visit to our shop would convince the most skeptical believer."

Another letter details why storing vehicles on business premises is impractical and costly,

"It is rarely practical for vehicles to be stored at our shop, which is remote from the areas most of our employees live. It is impractical for two reasons:

(1) Left on our premises, we have no economical means to protect them against theft, vandalism, or other perils. If they are stored overnight at the employees home, then we can at least minimize our exposure, since a thief or vandal would probably only strike at that location and not twenty or twenty-five. This, of course, reduces our insurance premiums by keeping our experiences low.

(2) Most of our employees are subject to call 24 hours per day, and often are called out in the middle of the night to solve a plumbing, heating or air conditioning problem. Many businesses and families depend on our 24 hour service and we have a reputation in our community of responding rapidly to emergency calls. If we had to store our vehicles at our shop, it not only would cause a great deal of difficulty in responding to those calls in a timely and efficient manner but, would add considerable costs to the customers invoice."

CONCLUSION

Construction subcontractors in the sheet metal and air conditioning industry have not complained in the past when the prior law required adequate substantiation of expenses. Previously, service vehicles used in an obvious business situation only demanded invoices for customers serviced or visited and some record of sales to fulfill

the adequate recordkeeping requirement justifying business use. The new IRS requirement, aimed at clarifying the gray areas of the old law, goes far beyond what is necessary and has created the paperwork nightmare under examination by the Committee.

As mentioned earlier in our remarks, the proposed temporary regulations for recordkeeping could cost businesses over $7 billion to eliminate the $110-140 million in "gray area" abuses that IRS claims exist. The $7 billion includes only the estimated paperwork and ignores lost productivity, higher insurance rates, parking lot acquisitions, increased security expenses, and many other costs directly associated with the regulations.

Due to the exorbitant increase in business paperwork and associated costs, we feel the IRS regulations must be repealed. When combined with the reduced efficiency and productivity that would result for already over-regulated small contractors, we see no other message to send the IRS. The goals of this Administration and Congress are to get government off the back of business and reduce paperwork and red tape. We agree. Therefore, Congress and this Committee should repeal the IRS regulation and include legislative language preventing situations similar to this one from occurring again.

99TH CONGRESS
1ST SESSION

H. R. 600

To repeal the contemporaneous recordkeeping requirement and certain other recently enacted provisions of the Internal Revenue Code of 1954.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 22, 1985

Mr. ROEMER (for himself, Mr. BLILEY, Mr. ROWLAND of Georgia, Mr. SLAUGHTER, Mr. PASHAYAN, Mr. LAGOMARSINO, Mr. YOUNG of Alaska, Mr. JONES of Tennessee, Mr. BOULTER, Mr. MCCURDY, Mr. DICKINSON, Mr. STENHOLM, Mr. WEBER, Mr. KINDNESS, Mr. ROSE, Mrs. BENTLEY, Mr. SKEEN, Mr. CRAIG, Mr. WORTLEY, Mr. BREAUX, Mr. JONES of North Carolina, Mr. STANGELAND, Mr. MONTGOMERY, Mr. LIGHTFOOT, Mr. WILSON, Mr. PORTER, Mr. FAUNTROY, Mr. DEWINE, Mr. MCKERNAN, Mr. BARTLETT, Mr. COMBEST, Mr. HUBBARD, Mr. STUMP, Mr. COELHO, Mr. LUJAN, Mr. SAM B. HALL, JR., Mr. HARTNETT, Mr. DAUB, Mr. CALLAHAN, Mr. SNYDER, Mr. SENSENBRENNER, Mr. ROWLAND of Connecticut, Mr. RAY, Mr. KANJORSKI, Mr. LEWIS of Florida, Mr. LIVINGSTON, Mr. RUDD, Mr. ROBERTS, Mr. LEATH of Texas, Mr. SPRATT, Mr. EMERSON, Mr. DANNEMEYER, Mr. DANIEL, Mr. TAYLOR, Mr. HORTON, Mr. O'BRIEN, Mrs. COLLINS, Mr. FUQUA, and Mr. SUNDQUIST) introduced the following bill; which was referred to the Committee on Ways and Means

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A BILL

To repeal the contemporaneous recordkeeping requirement and certain other recently enacted provisions of the Internal Revenue Code of 1954.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Taxpayer Relief Act of 1985".

CONTEMPORANEOUS RECORDKEEPING REPEALED

SECTION 2. That (a) subsection (b) of section 179 of the Tax Reform Act of 1984 (relating to contemporaneous recordkeeping requirements and other compliance provisions) and the amendments are hereby repealed.

(b) The Internal Revenue Code of 1954 shall be applied as if such subsection (b) (and the amendments made by such subsection) had never been enacted.

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